

6/12/20

See comments on this June 5, 2020 City Staff Memo and on the attached May 29, 2005 Airport Advisory Commission Recommendation 20200529-001: Texas Regional Application.



M E M O R A N D U M

To: Mayor and City Council

From: Jacqueline Yaft, Executive Director, Aviation Department *Jacqueline Yaft*

Date: June 5, 2020

Subject: Aviation Department Inspections of the Travis County Landfill

This memorandum is in response to the February 20, 2020 Council Meeting Citizen Communications regarding Aviation staff actions to mitigate bird hazards at the Travis County Landfill, South of Runway 17R/35L. The following is an overview of the approach to wildlife observations and management actions by Aviation personnel at the landfill.

Current, Ongoing Wildlife Activities:

Landfill inspections are conducted on a routine basis by Airside Operations personnel. These site visits consist of identifying species, quantities, and behavior of birds in the immediate vicinity of the landfill, as well as making general observations of contents on the ground. Periodically, Airside Operations personnel will discharge pyrotechnics to disperse larger birds. The log of these visits from November 2019 through this week is attached.

Findings are communicated immediately during the visit if the Site Manager is present. When more significant findings are observed, those are conveyed to both the Site Manager, and the Southern Region Engineering Manager for Waste Connections.

The Aviation Department also works with a USDA Biologist through the Texas Wildlife Services Program. Approximately once a month this Biologist will accompany Aviation staff to make observations of the airport and surrounding area, including the landfill to record similar observations.

TCEQ Landfill Pending Permit 1841B:

In November of 2019, the TCEQ held a public hearing and a public comment period for the proposed expansion of Travis County Landfill, Permit Number 1841B. The Department of Aviation submitted a comment requesting that a new requirement be added in the Landfill Operators permit to section III-m vector control (see attachment for TCEQ confirmation). The new section would require that the Landfill Operator update and replace their Wildlife Control Plan and create a Wildlife Hazard Management Plan (WHMP) for the landfill that is prepared by a FAA qualified Wildlife Biologist/Consultant specializing in Wildlife Hazard Management Plans within 12 months of the issued permit, and should be audited annually.

This "requirement" is toothless, in that there are no requirements for the landfill operator to do anything, such as requiring soil landfill cover over the working face of the landfill and the haul off of food waste daily, and particularly on Saturday afternoons and Sundays when the landfill is closed to the receipt of waste.

This attachment is not attached.

The Commission did "formerly request the City Council firmly oppose granting a permit..., unless..." On May 28, 2020, The Airport Advisory Commission held a special meeting to discuss the Airport Wildlife Program and hear public comment on wildlife concerns at the landfill. A resolution was passed recommending Council object to the permit extension unless certain conditions are met. A copy of that resolution is also attached.

If you have any additional inquiries, feel free to contact Loren Lintner, Airport Operations Manager, at 512-530-7524.

Attachments:

1. Wildlife Surveys: Travis County Landfill
2. Airport Advisory Commission Resolution related to the landfill permit extension

CC: Gina Fiandaca, Assistant City Manager
Loren Lintner, Airport Operations Manager

Wildlife Surveys: Travis County Landfill

Date	Time	Species	Quantity	Location	GPS Coord. / Notes	Inspector
11/6/2019		European Starling	~50	County Landfill		C.Moret
11/6/2019		Meadowlark	~30	County Landfill		C.Moret
11/21/2019	9:35AM	Black Vulture (in flight)	1	County Landfill	USDA personnel present for inspection	C.Moret
12/6/2019	9:30AM	Black Vulture (in flight)	5	County Landfill		C.Moret
12/6/2019	9:30AM	"Blackbirds"	50	County Landfill		C.Moret
12/13/2019	10:00AM	"Vulture" (none observed)	0	County Landfill		C.Moret
1/8/2020	9:35AM	"Vulture" (none observed)	0	County Landfill		C.Moret
1/8/2020	9:35AM	"Blackbirds"	~10	County Landfill		C.Moret
1/24/2020	10:48AM	"Blackbirds"	20	County Landfill		C.Moret
1/24/2020	10:48AM	"Vulture" (none observed)	0	County Landfill		C.Moret
2/5/2020	8:40AM	"Blackbirds" (grackles, starlings)	200	County Landfill		C.Moret
2/5/2020	8:40AM	"Vulture" (in flight)	2	County Landfill		C.Moret
2/5/2020	8:40AM	American Crow (in flight)	8	County Landfill		C.Moret
2/14/2020	10:00AM	"Grackle"	35	County Landfill		C.Moret
2/14/2020	10:00AM	European Starling	30	County Landfill		C.Moret
2/14/2020	10:00AM	Turkey Vulture (in flight)	1	County Landfill	USDA personnel present for inspection	C.Moret
2/28/2020	9:40AM	Black Vulture (loafing, not feeding)	8	County Landfill	8 vultures loafing but not feeding, 2 pyrotechnics deployed. USDA personnel present for inspection	C.Moret
2/28/2020	9:40AM	"Grackle"	110	County Landfill		C.Moret

Wildlife Surveys: Travis County Landfill

Date	Time	Species	Quantity	Location	GPS Coord. / Notes	Inspector
3/3/2020	10:00AM	Black Vulture (in flight)	12	County Landfill		C.Moret
3/3/2020	10:00AM	Black Vulture (feeding)	1	County Landfill	1 vulture feeding on unknown food source but soon departed from landfill	C.Moret
3/3/2020	10:00AM	"Blackbirds"	150	County Landfill		C.Moret
3/9/2020	10:52AM	"Vulture" (none observed)	0	County Landfill	No vultures observed	C.Moret
3/9/2020	10:52AM	"Blackbirds"	~200	County Landfill		C.Moret
3/16/2020	10:12AM	"Vulture" (none observed)	0	County Landfill	No vultures observed	C.Moret
3/16/2020	10:12AM	"Blackbirds"	~30	County Landfill		C.Moret
3/19/2020	10:05AM	Great Blue Heron (brief flew over)	1	County Landfill	Met with site manager (R.Arocho) during inspection	C.Moret
3/19/2020	10:05AM	"Vulture" (brief fly over)	2	County Landfill		C.Moret
3/19/2020	10:05AM	"Blackbirds"	~40	County Landfill		C.Moret
3/30/2020	9:55AM	Black Vulture (loafing, not feeding)	2	County Landfill	Vultures dispersed with shot from .22 rifle	C.Moret
3/30/2020	9:55AM	"Blackbirds"	~80	County Landfill		C.Moret
4/1/2020	10:25AM	"Vulture" (none observed)	0	County Landfill		C.Moret
4/1/2020	10:25AM	"Blackbirds"	~60	County Landfill		C.Moret
4/6/2020	10:15AM	"Vulture" (none observed)	0	County Landfill	No vultures observed	C.Moret
4/6/2020	10:15AM	Hawk, unknown species (in flight)	3	County Landfill		
4/6/2020	10:15AM	"Blackbirds"	~60	County Landfill	Three hawks observed in flight	C.Moret
4/8/2020	8:56AM	"Blackbirds"	~70	County Landfill		C.Moret
4/8/2020	8:56AM	Cattle Egret	1	County Landfill		C.Moret
4/8/2020	8:56AM	"Vulture" (none observed)	0	County Landfill		No vultures observed

Wildlife Surveys: Travis County Landfill

Date	Time	Species	Quantity	Location	GPS Coord. / Notes	Inspector
4/22/2020	9:25AM	"Vulture" (none observed)	0	County Landfill	No vultures observed	C.Moret
4/22/2020	9:25AM	Pigeon (in flight)	1	County Landfill		C.Moret
4/22/2020	9:25AM	"Blackbirds"	~10	County Landfill		C.Moret
5/14/2020	10:05AM	"Vulture" (none observed)	0	County Landfill	No vultures or raptor species observed	C.Moret
5/14/2020	10:05AM	"Blackbirds"	~10	County Landfill		C.Moret
5/14/2020	10:05AM	"Swallows"	~10	County Landfill	A few swallows (<10) observed in flight	C.Moret
5/18/2020	11:36AM	Turkey Vulture (in flight)	1	County Landfill	1 Turkey Vulture observed as it briefly flew over landfill	C.Moret
5/18/2020	11:36AM	Great-tailed Grackle (in flight)	1	County Landfill	1 Great-tailed Grackle flew over landfill	C.Moret
5/20/2020	1:30PM	"Vulture" (none observed)	0	County Landfill	No vultures and no other bird species observed	C.Moret
5/21/2020	10:10AM	"Vulture" (none observed)	0	County Landfill	No vultures or raptor species observed	C.Moret
5/21/2020	10:10AM	"Blackbirds"	~10	County Landfill	<10 blackbirds observed	C.Moret
5/21/2020	10:10AM	Mourning Dove (in flight)	2	County Landfill	Summary of previous 3 inspections discussed w/R.Arocho over phone	C.Moret
5/27/2020	10:35AM	Turkey Vulture (brief flew over)	1	County Landfill	USDA personnel present for inspection	C.Moret
5/27/2020	10:35AM	Great-tailed Grackle	2	County Landfill		C.Moret
5/30/2020	9:15AM	"Vulture" (none observed)	0	County Landfill	No vultures or raptor species observed	C.Moret

Wildlife Surveys: Travis County Landfill

Date	Time	Species	Quantity	Location	GPS Coord. / Notes	Inspector
5/30/2020	9:15AM	Great Blue Heron (brief flew over)	2	County Landfill	Note: This inspection was on a Saturday	C.Moret
5/30/2020	9:15AM	Great-tailed Grackle (brief flew over)	1	County Landfill		C.Moret

6-12-20
Questions:

- Will the City Council act upon this to pass a resolution that directs the City staff to seek Party Status to make sure these toothless requirements, or a list of credible and binding requirements are included within the Special Provisions of the Permit?
- This AAC Recommendation completely ignores the many weeks of photos & video presented to the City of birds regularly feeding on the working face of this Type IV uncovered landfill on many Sundays in 2018 and 2019 and the need for daily soil landfill cover to eliminate bird access to putrescible waste left within the exposed waste on the landfill working face.



Note: These "requirements" are easily met by this landfill operator and have no teeth to assure anything changes from their past practices. This is clearly worded to allow this Type IV landfill to be tied together with the City landfill and do a major expansion of both landfills with this same set of toothless and ineffective requirements.

COMMISSION RECOMMENDATION

AIRPORT ADVISORY COMMISSION

Recommendation 20200529-001: Texas Regional Landfill Company Application

Whereas, it is the Airport Advisory Commission responsibility to review and make recommendations to the city council on aviation projects that the Department of Aviation proposes for the capital improvements program, proposed aviation grants, aviation contracts, annual operating budget and quality of services at Austin-Bergstrom International Airport (ABIA or Airport); and

Whereas, the quality of services provided by the Department of Aviation are linked to public perception of safety is an important to all air travelers, and past and future funding support for the Airport is partially dependent on successful wildlife hazard management; and

Whereas, according to the U.S. Federal Aviation Administration (FAA), wildlife strikes pose a significant safety risk to aircraft as evidenced during the past century as wildlife-aircraft strikes resulted in the loss of hundreds of lives worldwide. Consequently, the FAA, has mandated airports take measures to monitor, and if necessary, mitigate wildlife strike risks on and within the vicinity of an airport; and

Whereas, United States Congress has found that collisions between aircraft and birds have resulted in fatal accidents, landfills near airports pose a potential hazard to aircraft because they attract birds; and while certain mileage limits have the potential to be arbitrary, keeping landfills at least 6 miles away from an airport is an appropriate minimum requirement for aviation safety; and

Whereas, The Texas Regional Landfill Company has submitted application for a permit to continue to operate and expand the landfill located less than 3,000 feet from the south boundary of the Airport in close proximity to an active runway; and

This ignores the City's certification to the FAA that the landfill does not pose a hazard to aircraft safety, or whatever their certification was required to include.

This clearly is a rigged deal between City staff and the landfill operator to create a plan intended to allow both the expansion of this Type IV landfill and the reopening and expansion of the adjacent City of Austin Type I landfill located immediately to the east of this landfill. Wouldn't this reverse, or at least seriously call into question the City lower staff approval letter of no objection sent to the FAA and which was relied upon by the TCEQ to authorize the City's acceptance of the continued expansion of the landfill, particularly since this recommendation doesn't call for any real requirements that could be expected to reduce the chance of a bird strike hazard to aircraft, or have any consequences if the recommendation s or conditions are not met?

Whereas, in response to the FAA requirements for airport certification, the Airport has completed a Wildlife Hazard Survey and developed a comprehensive Wildlife Hazard Management Program, hired a Certified Airport Biologist and employed staff to specifically and continually address the threat of wildlife-aircraft strikes; and

Whereas, past records and staff observations have not shown an elevated the presence of wildlife vectors to cause major concern; and

Whereas, FAA may require owners or operators of landfills to (1) demonstrate that a municipal solid waste landfill (MSWLF) is designed and operated so as not to "pose a bird hazard to aircraft"; (2) place a copy of the demonstration in the MSWLF operating record, and (3) notify the State Director that it has been placed in the operating file; and

Isn't this very understated?

Whereas, the future expansion of the aviation safety and airport funding depend on proper land use of the area close to active runways at the Airport and the absolute wildlife hazard control of the users.

Now Therefore, Be It Resolved that the Airport Advisory Commission of the City of Austin formally request the Austin City Council firmly oppose granting a permit for Type IV Municipal Solid Waste Facility located at 9600 FM 812 and owned by Texas Regional Landfill Company, LP, a subsidiary of Waste Connections of Texas; unless the following conditions are part of the permit of Texas Commission on Environmental Quality (TCEQ) approval:

So, if the City Council took this position, would this require that the City take Party status as an opponent, a supporter, or a neutral party, to insure this is fully incorporated in any finally issued permit amendment?

- 1) The Texas Regional Landfill Company, will ensure immediate response and remediation of landfill conditions that are or could attract wildlife, thereby creating a hazard to aviation.

This seems to be intentionally worded to appear to be a requirement, but to have no specifics as to what would trigger an immediate response and remediation, nor what such a response or remediation would be, or what consequences there must be if there is no response or remediation at all.

The verb is missing. Is it "shall", "may", "might", "could" or "will not"?

- 2) The Texas Regional Landfill Company, LP, a subsidiary of Waste Connections of Texas, perform a Wildlife Hazard Survey and submit a Wildlife Hazard Management Plan for their site developed by a Certified Airport Biologist within six months for review by ABIA and approved by the Texas Commission on Environmental Quality.
- 3) Once approved and accepted by the Texas Commission on Environmental Quality, the Plan will become a condition of their permit.
- 4) Approval of the expansion of the facility be withheld pending the performance of the operator.
- 5) The operator will provide TCEQ and the airport demonstration that the site is being operated or designed so as not to pose a bird hazard to aircraft.
- 6) Additionally, the operator agrees to the following:
 - a. Provide the Airport Wildlife Hazard Management Team unrestricted access to their facility and attend an Airport Wildlife Hazard Working Group meeting along with other enterprises surrounding the Airport on a semi-annual basis.
 - b. Designate an employee to be trained on wildlife hazard management to oversee company day-to-day operations.
 - c. Provide an employee to participate as a team member in investigating of bird strike incidents (not necessarily attributed to a landfill facility hazard)

Within 6 months of what date; and what is the "Plan" supposed to include & require of them?

Will the Plan be subject to review and cross examination in the Contested Case Hearing Process, or will it delay the issuance of an ED's Draft Permit, or the start of the Hearing?

In this case, what is a "demonstration," and how and when will this be reviewed during the Contested Case Hearing process?

Has this Commission Recommendation already been agreed to by the landfill operator?

None of these will have any impact on bird strike risk reduction without a requirement for 6" soil daily cover, and the requirement that all putrescible waste within waste loads be removed from any and all waste dumped at the working face of the landfill and removed from the site on a daily basis for disposal at an authorized facility. Also, there are no consequences if the landfill operator fails to do any of these things. This is designed to help this operator to expand this landfill and to reopen and expand the adjacent City Type I landfill, which is currently closed to the receipt of waste, but the Active Status of the City's TCEQ permit is not closed, nor has the City sought to close its landfill officially and begin the facility's 30 year post closure care process.

Date of Approval: May 29, 2020

Record of the vote: Approved on an 8-0-3 vote.

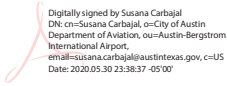
For: Eugene Sepulveda (D-3), Jeremy Hendricks (D-7), Scott Madole (D-8), Ernest Saulmon (D-10), Vicky Sepulveda (Mayor), Frank Maldonado (D-4), Wendy Todd Price (D-9), Brian Stoller (D-2)

What do these phrases mean? The approval of the Draft Permit, the Permit Amendment, or the start of the vertical expansion filling above the previously approved elevations, or the construction of the lateral expansion portion of the Permit Amendment after the permit has been approved by the TCEQ with these Special Provisions? And, what determines "the performance of the operator"?

Against: 0

Abstain: 0

Absent: Mike Rodriguez (D-5), Michael Watry (D-6), Billy Owens (D-1)

Attest:  Susana Carbajal

Susana Carbajal
Executive Liaison
Department of Aviation