

# Texas Natural Resource Conservation Commission

## INTEROFFICE MEMORANDUM

To: LaDonna Castanuela, Chief Clerk                      Date: June 18, 2009

From: Carlotta Vann  
Waste Permits Division

Subject: Montgomery Landfill Solutions, L.P., Permit No. 2324

Submitted are one original and seven copies of the agenda backup material for the above referenced matter scheduled for the July 8, 2009, Commission Agenda. Included are copies of the Agenda Caption, Technical Summary and Executive Director's Preliminary Decision, Compliance History Report, and Permit. The agenda caption has been submitted through the AIR System.



Carlotta Vann

CHIEF CLERKS OFFICE

2009 JUN 18 AM 8:36

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**TCEQ Docket No. 2005-1371-MSW.** Consideration of an application by Montgomery Landfill Solutions, L.P., for a new Type IV Municipal Solid Waste permit to authorize a new construction and demolition waste landfill (Proposed Permit No. 2324). The Applicant proposes to locate the facility at 3761 North Walker Road, approximately 1.4 miles north of the intersection of North Walker Road and SH 105, abutting the west side of North Walker Road in Montgomery County, Texas. This permit, if approved would authorize the proposed facility of 473.0 acres to use approximately 207.1 acres for disposal of solid waste resulting from, or incidental to, construction, demolition, and grounds keeping activities. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Timothy Reidy, John Williams, Eric Beller)

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## EXECUTIVE SUMMARY

September 17, 2007

### DESCRIPTION OF APPLICATION

Applicant: Montgomery Landfill Solutions, L.P.  
Municipal Solid Waste (MSW) Permit Application No. 2324

Type: Type I Municipal Solid Waste Landfill Facility

Request: To issue a municipal solid waste permit, No. 2324, for a new municipal solid waste Type IV landfill facility, and to operate this facility in accordance with the application.

Authority: Texas Commission on Environmental Quality rules, 30 TAC Chapter 330.

### STAFF RECOMMENDATION

Issue permit as requested.

### TECHNICAL INFORMATION

General: The facility is located in Montgomery County, Texas, at 3761 North Walker Road. There are no hospitals, schools, churches, recreational areas, cemeteries, or springs located within one mile of the facility. The surrounding land use within one mile of the site is about 40% residential (mostly east of North Walker Road) and 60% undeveloped or agricultural. The waste acceptance rate into the landfill will be an anticipated rate of approximately 858,000 tons per year (average 3,000 tons per day, 6 days per week) of municipal solid waste resulting from, or incidental to, construction, demolition and groundskeeping activities, including brush, construction/demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free of putrescible and household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer/recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director. The permit application meets the technical requirements of Commission rules and provides safeguards to protect the public health and safety, and the environment.

Conditions: Conditions of the permit are set forth in the final permit. Detailed information about the facility and its operation are contained in the Technical Summary.

### COMPLIANCE HISTORY

See attached.

CONTACT Eric Beller (512) 239-1177  
MSW Permits Section

**TECHNICAL SUMMARY  
of the**

**MLS TYPE IV LANDFILL  
MSW PERMIT APPLICATION  
No. 2324**

**Type IV  
Municipal Solid Waste Facility  
Montgomery County, Texas**

Applicant:  
**Montgomery Landfill Solutions, L.P.**

Date Prepared: September 13, 2007

Prepared and Issued by the  
Texas Commission on Environmental Quality (TCEQ)  
Office of Permitting, Remediation and Registration  
Waste Permits Division  
Municipal Solid Waste (MSW) Permits Section

This summary was prepared in accordance with 30 Texas Administrative Code Section 281.21(c). The information contained in this summary is based upon the permit application. Not all of the information contained in this summary has been independently verified.

Name of Applicant: Montgomery Landfill Solutions, L.P.  
13921 Hwy 105 West, Suite 137  
Conroe, TX 77304

Name of Facility: MLS Type IV Landfill

Contact Person: Mr. Jeff McClanahan, Manager  
13921 Hwy 105 West, Suite 137  
Conroe, TX 77304  
(713) 306-7471

Consulting Engineers: Mr. Gary R. Horwitch, P.E., Sr. Consultant  
Metroplex Industries, Inc.  
14423 Cornerstone Village Drive  
Houston, TX 77014  
(281) 440-5503

Type of Facility: 207.1-acre Type IV waste unit on a 473.0-acre facility

1. **GENERAL**

1.1 Purpose:

This permit application, submitted by Montgomery Landfill Solutions, Inc., is to construct and operate a new Type IV Municipal Solid Waste (MSW) landfill in Montgomery County, Texas. The total permitted facility will include 473.0 acres of land of which approximately 207.1 acres will be used for waste disposal. The final elevation of the waste fill and final cover material will be 408.29 feet above mean sea level (msl). The site will be authorized to accept the waste streams as listed below.

1.2 Wastes to be Accepted:

Solid waste to be disposed of will primarily consist of municipal solid waste resulting from, or incidental to, construction, demolition and groundskeeping activities, including brush, construction/demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free of putrescible and household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer/recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director. The proposed landfill is prohibited to accept waste materials other than those mentioned above, and those waste streams that are expressly prohibited by 30 Texas Administrative Code (TAC) Chapter 330, including but not limited to hazardous waste, Class 1 non-hazardous industrial waste, Class 2 non-hazardous industrial waste, Class 3 non-hazardous industrial waste, regulated radioactive waste, waste containing regulated polychlorinated biphenyls, putrescible waste, household waste, liquid waste, water and wastewater treatment sludge, grease/grit trap wastes, special wastes, and waste materials that may cause an odor or nuisance or that may require excessive or special onsite procedures and handling requirements.

1.3 Waste Acceptance Rate:

Authorized wastes will be accepted at an anticipated initial average rate of approximately 858,000 tons per year (3,000 tons per day, 6 days per week) to a final average rate of approximately 1,145,000 tons per year (4,000 tons per day, 6 days per week) which results in an estimated life of approximately 30 years.

2. **LOCATION AND SIZE**

2.1 Location:

The MLS Type IV Landfill is located in Montgomery County, Texas. The facility abuts the west side of North Walker Road about 1.4 miles north of the intersection of North Walker Road and State Highway (SH) 105 and has a physical address of 3761 North Walker Road. Refer to the General Location Map, Attachment 1 to this Application Summary.

2.2 Elevation and Coordinates of Permanent Benchmark:

Latitude:	N 30° 21' 03"
Longitude:	W 95° 17' 10"
Elevation:	204.18 msl

2.3 Size:

The total area within the permit boundary under the proposed permit is approximately 473.0 acres.

3. **FACILITY DESIGN, CONSTRUCTION, AND OPERATIONS**

3.1 Facilities Authorized:

The permittee will be authorized to operate the facility subject to the limitations contained in the permit. All waste disposal operations will be limited to the units and other features identified in the Site Development Plan and the Site Operating Plan as follows.

3.1.1 A Type IV municipal solid waste landfill facility with a single waste disposal cell footprint of approximately 207.1 acres. The landfill will have a below grade excavation of approximately 47 feet to an elevation of 167.4 feet above msl with continuous area filling with waste, and above grade aerial fill of approximately 188 feet to a top of final cover elevation of 408.3 feet above msl. The proposed facility will contain a gatehouse, perimeter drainage ditches and dikes, four sedimentation/detention basins, segments of Lawrence Creek, West Fork of Spring Branch and a tributary of Lawrence Creek, 29 shallow groundwater monitoring wells and 18 deep groundwater monitoring wells, 17 gas monitoring probes, sidewall clay plug, clay liner system and final cover system.

- 3.1.2 Access roads, temporary and permanent drainage features, disposal trenches, all appurtenances, and other improvements shall be built, operated, and/or maintained in accordance with the conditions of the permit, Part I - IV of the permit application, and commission regulations. The facility shall be managed in a manner to protect human health and the environment.

**4. LAND USE**

- 4.1 The site is located in Montgomery County near the City of Cut and Shoot, Texas and adjacent to the unincorporated community of Midway. Midway is a growing community of varying lot sizes mixed with some agricultural and timberland tracts and commercial properties primarily located along SH 105. The landfill site is about 1.4 miles north of the intersection of North Walker Road and SH 105, northeast of Cut and Shoot.
- 4.2 The proposed facility will be located in Montgomery County outside of the incorporated limits of any city and is therefore not subject to any known city zoning ordinances.
- 4.3 The surrounding land is 60% undeveloped or agricultural, 39% residential with agricultural and 1% industrial. There are an estimated 780 people residing within 1 mile of the site (based on 2000 census data, which indicates that there are 2.92 people per residence and an estimated 267 residences within one mile of the permit boundary). These people are primarily located on the east side of North Walker Road.
- 4.4 Structures located within the 1 mile boundary of the site consist of homes along roads and agricultural use structures. There are nine structures and habitable buildings within 500 feet of the permit boundary. The nearest is approximately 75 feet east of the permit boundary and about 1,150 feet east of the waste cell.

**5. TRANSPORTATION AND ACCESS**

- 5.1 The site is reached from an access road on property south of the proposed permit boundary. This property is owned by the permittee but is not within the permit boundary. The access road is entered from SH 105, west of North Walker Road. SH 105 is a two-lane asphalt-surfaced roadway with a 44-foot cross-section, including 12-foot travel lanes with a 10-foot shoulder in each direction. Traffic volumes were acquired by the applicant from automatic tube counters, peak-hour turning movement counts and vehicle classification counts. Based on this information, the average daily traffic volume for SH 105 in the vicinity of North Walker Road is 12,408 vehicles per day traveling in both directions. The peak flow rate for SH 105 is 1,104 vehicles per hour, based on year 2006 traffic, traveling in both directions. The landfill facility is expected to contribute approximately 454 vehicles per day in the first year of operation and increase to 608 vehicles per day in the 30<sup>th</sup> year of operation.

SH 105 will be improved in the vicinity of North Walker Road. The improvements will meet Texas Department of Transportation (TxDOT) requirements. A diagram illustrating the TxDOT-approved design is provided in Part II of the application. As noted in the Special Provisions, this road must be improved before the facility may receive waste.

- 5.2 There are no public use airports located within five miles of the site. The nearest public use airport is the Montgomery County Airport, which is located about 6.7 miles west of the site. The FAA was contacted and did not object to the location of the landfill site.

## 6. SURFACE WATER PROTECTION

### 6.1 Floodplain:

There are two areas where designated 100-year floodplain areas appear to lie within the permit boundary of the facility. These are along Lawrence Creek on the west side of the property and the West Fork of Spring Branch across the southwest corner of the property. Another area within the property boundary subject to flooding from a 100-year storm event exists along a tributary to Lawrence Creek across the northeast corner of the property. The waste cell, perimeter roads, sedimentation/detention basins and site monitoring systems are not within these areas.

### 6.2 Storm Water:

Unaffected storm water from within the footprint of the waste unit is channeled to four sedimentation/detention basins. Two of these (Basin Nos. 2 and 3) discharge to the West Fork of Spring Branch and then to the south. Basin No. 1 discharges to Lawrence Creek and then to the southeast. Basin No. 4 discharges to the tributary to Lawrence Creek, leaving the property near its northeast corner to join Lawrence Creek. This storm water re-enters the property near the northern end of its easternmost perimeter and discharges to the southeast. The entire permitted boundary discharges through six outfalls. In addition to the four described above are an outfall to the north on the northernmost perimeter and an outfall to the south near the center of the southern perimeter.

### 6.3 Contaminated Water:

Storm water that comes in contact with solid waste will be considered contaminated water. Contaminated storm water at the working face will be properly contained and managed. No contaminated water will be discharged from the site.

## 7. GROUNDWATER PROTECTION

### 7.1 Groundwater Protection:

To reduce the potential to affect groundwater at the site resulting from waste disposal operations, fill areas will be underlain by, from the subsurface up, a three-foot compacted clay layer with a hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second (cm/sec) or less and a 12-inch-thick protective cover of soil. An additional compacted clay plug will be installed on all sidewalls to protect Stratum II (the shallow water-bearing zone). This plug will be from 32.5 to 36 feet thick with a minimum hydraulic conductivity of  $5 \times 10^{-8}$  cm/sec and will be placed behind the compacted clay liner sidewall. The waste cell will have a final cover of, from the top down, a 12-inch-thick grassed erosion layer and an 18-inch thick clay infiltration barrier with a maximum hydraulic conductivity of  $1 \times 10^{-7}$  cm/sec.

7.2 Monitoring Wells:

A groundwater monitoring system will provide for early detection of potential releases from the facility in two strata, the more shallow Strata II and the deeper Strata IV. The system will consist of 29 shallow groundwater monitoring wells (in Strata II) and 18 deep groundwater monitoring wells (in Strata IV). The groundwater monitoring network will be sampled, analyzed, and monitored in accordance with the procedures in the Groundwater Sampling and Analysis Plan (Part III, Attachment 11 of the Permit Application), which is part of the facility permit.

8. CONTROL OF METHANE

8.1 Clay Liners:

The design and construction of the below grade liners, described in Section 7.1 of this Technical Summary, inhibit migration of methane gas.

8.2 Monitoring:

Landfill gas migration will be monitored around the perimeter of the facility utilizing 17 permanent landfill gas monitoring probes (LGMP). LGMPs will be installed throughout the sequence of operations at the facility whenever waste is placed within 1,000 feet of a proposed probe location. Gas monitoring will be conducted quarterly to ensure that the concentration of methane gas generated by the facility does not exceed the lower explosive limit (LEL) at the facility property boundary or 25% of the LEL in enclosed structures within the facility property boundary.

9. SITE DEVELOPMENT AND OPERATION

The Site Development Plan (SDP), Part III of the application, and Site Operating Plan (SOP), Part IV of the application, are intended to provide guidelines for facility management and operating personnel to implement, develop, and operate the solid waste management facility. The SOP is to provide an operating guide for site management to maintain the facility in compliance with the engineering design and applicable TCEQ regulations. The SDP and SOP were prepared using 30 TAC Chapter 330 regulations and will become part of the facility permit if the proposed landfill application is approved by the TCEQ.

10. PROTECTION OF ENDANGERED SPECIES

The applicant contacted both the Texas Parks and Wildlife Department and the U.S. Fish & Wildlife Service to inquire about the possibility of threatened and endangered (T&E) species within the permit boundary. These agencies had no specific information for the proposed site, but offered T&E species found in the county or nearby the proposed site. In response, the applicant contracted for a protected species site investigation. The report prepared for this investigation is provided in the application as Exhibit 3 to Appendix H in Part II. The conclusion of the report is that there are no threatened or endangered plants or animals that are likely to be affected by the proposed construction and that the property contains no critical habitat to support any endangered

plant or animal species. Procedures for protection of T&E species and migratory birds are included in the Site Operating Plan, Part IV of the application.

**11. PROTECTION OF WETLANDS**

Jurisdictional wetlands have been identified near Lawrence Creek, a tributary to Lawrence Creek and the West Fork of Spring Branch. The landfill cell was designed to avoid these jurisdictional wetlands. Over 20 acres of non-jurisdictional wetlands will be removed by this facility. A wetlands delineation report is provided with the application as Exhibit 1 to Appendix F in Part II.

**12. FINANCIAL ASSURANCE**

Authorization to operate this facility is contingent on the maintenance of financial assurance in accordance with 30 TAC Chapters 330 and 37, Financial Assurance, and the provisions contained in the permit application.

**13. ATTACHMENTS**

Figures from the permit application that provide illustrations of the site location, nearby land use, and site development include the following:

<u>Figure Number</u>	<u>Description</u>	<u>Location in Permit Application</u>
1-1	General Location Map	Part I, page I-2
1-2	Site Vicinity Map	Part I, page I-3
1-3	Site Location Map	Part I, page I-5
1-5	Land Use Map	Part I, page I-12
1-6	Adjacent Landowners Map	Part I, page I-15
2-4	General Topographic Map	Part I, page I-28
	Various Site Layout Plans	Part III, Attachments 1, 2 and 3

**14. ADDITIONAL INFORMATION**

For information concerning the regulations covering this application, contact the Texas Commission on Environmental Quality:

Mr. Eric Beller  
MSW Permits Section, MC 124  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711  
(512) 239-1177

For more specific detailed technical information concerning any aspect of this application or to request a copy of the Site Development Plan, please contact the Applicant's Agent or the Applicant at the address provided at the beginning of this summary.

**15. PUBLIC PARTICIPATION PROCESS**

The process through which the public is allowed to participate in the final decision on the issuance of a permit is outlined as follows.

The TCEQ will hold a public meeting if the Executive Director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the Commission accepts formal comments on the application. There is also an informal question and answer period.

- 15.1 The TCEQ will hold a public meeting if the Executive Director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the Commission accepts formal comments on the application. There is also an informal question and answer period.
- 15.2 Technical review of the application is completed, a final draft permit is prepared, and the application is declared technically complete. Information for the application, the draft permit, the notice, and summaries are sent to the Chief Clerk's office for processing.
- 15.3 The "Notice of Application and Preliminary Decision" is sent to the applicant and published in the newspaper. This notice provides a 30-day period, from the date of publication, for the public to make comment(s) about the application or draft permit. A public meeting will be held if one is requested by a member of the legislature or if there is substantial public interest in the proposed landfill.
- 15.4 After the 30-day comment period has ended, a "Response to Comments" (RTC) is prepared for all comments received through the mail and at a public meeting. The RTC is then sent to all persons who commented on the application. Persons who receive the comments have a 30-day period after the RTC is mailed in which to request a contested case hearing.
- 15.5 After the 30-day period to request a contested case hearing is complete, the matter is placed on an agenda meeting for the TCEQ Commissioners to make a determination to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a contested case hearing.
- 15.6 A contested case hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant party(ies) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ Commissioners for consideration of issuance or denial of a permit.
- 15.7 After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 20 days after the party or the party's attorney of record is notified of the decision. The matter could be set on another agenda for consideration by the Commission, or allowed to expire by operation of law.

- 15.8 Applications for which no one requests a contested case hearing are considered uncontested matters after the 30-day comment period. The application is placed on the Executive Director's signature docket and a permit is issued. Any motion to overturn the Executive Director's decision must be filed no later than 23 days after the agency mails notice of the signed permit.



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

MSW Permit No. 2324

Name of Permittee            Montgomery Landfill Solutions, L.P.  
and                                    13921 Hwy 105 West, Suite 137  
Site Owner:                        Conroe, TX 77304

Facility Name:                 MLS Type IV Landfill

Classification of Site:        Type IV 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.

APPROVED, ISSUED AND EFFECTIVE in accordance with 30 Texas Administrative Code Chapter 330.

ISSUED DATE:

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For the Commission

Table of Contents  
Montgomery County  
MLS Type IV Landfill  
MSW Permit No. 2324

**PART NO. 1**

**I. Size and Location of Facility .....3**

**II. Facilities and Operations Authorized .....3**

**III. Facility Design, Construction, and Operation.....4**

**IV. Financial Assurance .....6**

**V. Facility Closure .....7**

**VI. Site Completion and Closure .....7**

**VII. Standard Permit Conditions.....7**

**VIII. Incorporated Regulatory Requirements.....9**

**IX. Special Provisions.....9**

**PART NO. 2**

**ATTACHMENT A - Parts I through IV of the Permit Application Document .....9**

**PART NO. 3**

**ATTACHMENT B - Minor Amendments, Corrections, and Modifications That May Be  
Issued .....9**

## **PART NO. 1**

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

- A. The MLS Type IV Landfill is located in Montgomery County, Texas about 1.4 miles north of the intersection of North Walker Road and State Highway (SH) 105 with a physical address of 3761 North Walker Road.
- 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° 21' 03"
Longitude:	W 95° 17' 10"
Elevation:	204.18 feet above mean sea level (msl)

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

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

The operating hours at this municipal solid waste facility shall be from 5:00 a.m. to 9:00 p.m. on Monday through Saturday. Waste acceptance hours for this facility shall be from 7:00 a.m. to 7:00 p.m. on Monday through Saturday. Heavy equipment shall not operate outside of the facility operating hours.

#### **B. Wastes Authorized at This Facility**

Solid waste to be disposed of will primarily consist of municipal solid waste resulting from, or incidental to, construction, demolition and groundskeeping activities, including brush, construction/demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free of putrescible and free of household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer/recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director.

#### **C. Wastes Prohibited at This Facility**

The permittee shall comply with the waste disposal restrictions set forth in 30 Texas Administrative Code (TAC) Section (§) 330.5(e). The landfill is prohibited to accept waste materials other than those mentioned above, and those waste streams that are expressly prohibited by 30 TAC Chapter 330, including but not limited to hazardous waste, Class 1 non-hazardous industrial waste, Class 2 non-hazardous industrial waste, Class 3 non-hazardous industrial waste, regulated radioactive waste, waste affected by regulated polychlorinated biphenyls, putrescible waste, household waste, liquid waste, water and wastewater treatment sludge, grease/grit trap wastes, special wastes, and waste materials that may cause an odor or nuisance or that may require excessive or special onsite procedures and handling requirements.

D. Waste Acceptance Rate

Authorized solid wastes will be accepted at an anticipated initial average rate of approximately 858,000 tons-per-year (approximately 3,000 tons-per-day based on 312 days-per-year of operation) to a final average rate of approximately 1,145,000 tons-per-year (approximately 4,000 tons-per-day 312 days-per-year of operation) which results in an estimated life of approximately 30 years. 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 gross in-place (waste and cover) capacity is approximately 43,995,000 cubic yards, as provided in Part III, Section 5.0, page III-8 of the application found in Attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type IV municipal solid waste landfill that utilizes area fill with above and below grade filling 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, groundwater monitoring system, landfill liner system, and other improvements.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with Texas Commission on Environmental Quality (TCEQ) permit amendment or modification rules, 30 TAC Chapter 305 and 30 TAC Chapter 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 §§330.50 through 330.65 (relating to Permit Procedures), §§330.111 through 330.135 (relating to Operational Standards for Solid Waste Land Disposal Sites), §§330.138 through 330.139 (relating to Operational Standards for Solid Waste Land Disposal Sites), §330.200(e) (relating to Groundwater Protection Design and Operation Design Criteria for Type IV landfills), §330.203(h) (relating to additional provisions, at the discretion of the executive director for Type IV landfill excavations that extend below the seasonal high water table), §§330.204 through 330.206 (relating to Groundwater Protection Design and Operation), §330.239 (relating to Groundwater Monitoring at Type IV Landfills), §330.251 (relating to Closure Requirements for Municipal Solid Waste Landfill Units That Stop Receiving Waste Prior to October 9, 1991 and Municipal Solid Waste Sites [including Type IV facilities]), special provisions contained in this permit; and Parts I-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 and spills;
  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 the Texas Water Code §26.121;
  2. any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
  3. the requirements under the Federal Clean Water Act §404, as amended; and
  4. any requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act §208 or §319, 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)(1) through (4), 30 TAC §330.139, and in accordance with Part III, Attachment 15 of the application 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 of the application 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 of the application found in Attachment A of this permit.
- G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. The permittee shall comply with 30 TAC §330.52(b)(9) and with descriptions provided in Part I of the application found in Attachment A of this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of Commission rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV of the application found

in Attachment A of this permit. All facility employees and other persons involved in facility operations shall be appropriately trained.

- H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to aircraft operations will require prompt mitigation actions.

#### **IV. Financial Assurance**

- A. General. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with Subchapter K of 30 TAC Chapter 330 and 30 TAC Chapter 37.
- B. Closure Care Cost Estimates. 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 for the initial year closure cost estimate and within 12 months after the date of the pre-opening inspection, the permittee shall provide financial assurance instrument(s) for the largest area closure cost estimate. The initial year closure cost estimate of \$1,543,042 and the largest area closure cost estimate of \$5,848,534, both in 2004 dollars, are based on estimates as described in Part III Attachment 8 and Attachment 12 of the application 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 2004 until the year the permit is issued.
- C. Post-Closure Care Cost Estimates. 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 \$583,879 in 2004 dollars is based on estimates as described in Part III Attachment 8 and Attachment 13 of the application 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 2004 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. Modifications. If the facility 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 where the site is completely filled in accordance with Part III Attachment 7 of the application found in Attachment A of this permit;
- B. for failure to comply with the terms and conditions of this permit or violation of state or federal regulation upon direction by the Executive Director of the TCEQ, who 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 or rendering the site unusable;
- D. for failure to secure and maintain an adequate bond or other financial assurance as required;  
or
- E. upon notification to the TCEQ by the permittee that the landfill will cease to accept waste and no longer operate at any time before the site is 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 §§330.251 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 of the application found in Attachment A of this permit, for a period of 5 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.254(a).

## **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. 2324 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, 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 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 of 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 is grounds for an enforcement action, revocation, or suspension.

- D. A preconstruction conference shall be held pursuant to 30 TAC §330.64(c) within 90 days after issuance of the permit. After initial construction of the landfill a pre-opening inspection will be held in accordance with 30 TAC §330.64(d) before acceptance of waste. Additional preconstruction 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 Montgomery 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. Weekly cover of the waste fill areas shall be performed with clean 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 from material that has been used as weekly cover or that 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. The permittee shall maintain erosion and sedimentation controls in a functional condition until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and 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 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 and incorporated Parts I-IV of Attachment A of this permit, these Permit Provisions shall prevail.
- 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 before beginning any on-site improvements or construction approved by this permit.

**IX. Special Provisions**

The applicant shall document coordination with the Montgomery County Engineer's Office regarding bridge design and all weather access of the private entrance road from SH 105 to the facility as detailed in the application.

**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, Modifications, and Corrections may be issued for MSW Permit No. 2324.

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.

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602494320	Montgomery Landfill Solutions, L.P.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104006879	MONTGOMERY LANDFILL SOLUTIONS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT			2324
Location:	3761 N WALKER RD, CLEVELAND, TX, 77328			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	June 17, 2009			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	June 17, 2004 to June 17, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Carlotta Vann	Phone:	239 - 2348	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A