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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 1, 2008

Ms. LaDonna Castañuela
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

**Re: BFI Waste Systems of North America, Inc.
TCEQ MSW Permit No. 1447A
Executive Director's Response to Hearing Requests**

Dear Ms. Castañuela:

Please find enclosed the original and 11 copies of the Executive Director's Response to Hearing Requests in the above referenced matter.

If you have any questions or comments, please call me at (512) 239-0464. Thank you for your attention to this matter.

Sincerely,


for Steve Shepherd, Staff Attorney
Environmental Law Division, MC 173

2008 FEB - 1 PM 4:30
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Proposed Amendment to TCEQ MSW Permit No. 1447A
BFI Sunset Farms Landfill

Application by
BFI Waste Systems of North America,
Inc.
for TCEQ MSW Permit No. 1447A

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Before the
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

2008 FEB -1 PM 4:30
CHIEF CLERK'S OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests on an application by BFI Waste Systems of North America, Inc. (BFI, Applicant), for an amendment to TCEQ Municipal Solid Waste (MSW) Permit Number 1447 (BFI Sunset Farms Landfill). The Executive Director has provided copies of this Response to the hearing requestors or their representatives. The RTC was previously mailed by the Office of the Chief Clerk to all persons on the mailing list.

I. HEARING REQUESTERS

The Executive Director received timely hearing requests from 58 persons. The following items are provided with this Response:

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|---------------------|--|
| <u>Attachment A</u> | Summary Chart of Requesters, their status as affected persons, and their issues raised during the comment period |
| <u>Attachment B</u> | Map showing the location of residences or businesses of hearing requesters within 1 and 2 miles |
| <u>Attachment C</u> | Draft Permit |
| <u>Attachment D</u> | Technical Summary and Executive Summary |
| <u>Attachment E</u> | Compliance History of the Applicant |
| <u>Attachment F</u> | Executive Director's Response to Public Comment |

II. DESCRIPTION OF THE APPLICATION

Description of the Facility

The BFI Waste Systems of North America Sunset Farms Landfill is located in Travis County, Texas, approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290. The site is located within the city limits of the City of Austin. The facility entrance is located at 9912 Giles Road.

The landfill is a Type I municipal solid waste landfill, with a total capacity of 27,703,735 cubic yards (waste and daily cover) and final maximum elevation of 720 feet above mean sea level

(msl) under current MSW Permit No. 1447. The landfill is currently authorized to operate 24 hours a day, seven days a week. The total area within the permit boundary is approximately 349.4 acres, of which approximately 251.5 acres is designated for waste disposal.

MSW Permit Amendment Application No. 1447A proposes to expand the landfill vertically by 75 feet to a new final maximum elevation of 795 feet above msl, and to increase landfill capacity by 10,630,000 cubic yards to a total of 38,333,735 cubic yards (waste and daily cover). The operating hours, total area within the permit boundary, and area designated for waste disposal are not changed by this application. The application indicates that the site life will be approximately 8 years, and that waste will be accepted for disposal at this site at the initial rate of approximately 3,150 tons-per-day, increasing over time to a maximum acceptance rate of approximately 5,000 tons-per-day. The Executive Director revised the Draft Permit to include a Special Provision specifying that waste not be received at the landfill after November 1, 2015.

The permittee is currently authorized, and would continue to be authorized, to dispose of municipal solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including household garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, construction-demolition waste, and yard waste. The facility may also accept regulated asbestos-containing material from municipal sources, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content, Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, and certain special wastes identified in Part IV of the application. Prohibited wastes include wastes identified in 30 Tex. Admin. Code §330.5(e)(pre-2006 Revisions), hazardous wastes (other than municipal hazardous waste from conditionally exempt small quantity generators), radioactive wastes, polychlorinated biphenyl (PCB) wastes, nonhazardous Class 1 industrial wastes (other than that considered Class 1 only because of asbestos content), or any other wastes not authorized in the permit.

III. PROCEDURAL BACKGROUND

The Executive Director received BFI's application on January 20, 2006, and declared it administratively complete on January 31, 2007. The TCEQ Office of the Chief Clerk (Chief Clerk) mailed Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment on February 6, 2006. The Chief Clerk mailed an amended Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment on February 22, 2006. BFI published the amended notice in English in the *Austin American-Statesman* on February 27, 2006, and in Spanish in *El Mundo* on March 2, 2006.

The Executive Director completed the technical review of the application on March 21, 2007, and prepared a draft permit. The Chief Clerk mailed the Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit on March 29, 2007. The Chief Clerk mailed the Amended Notice of Application and Preliminary Decision and Notice of Public Meeting for Municipal Solid Waste Permit on May 7, 2007. BFI published its second notice April 26, 2007, May 3, 2007, May 10, 2007, and May 17, 2007, in English in the *Austin American-Statesman* and on the same dates in Spanish in *El Mundo*.

The Executive Director held a public meeting May 24, 2007, in Manor, Texas. The comment period was scheduled to close on June 18, 2007, but was extended by the Executive Director to close on June 29, 2007.

This application was administratively complete on or after September 1, 1999, and before March 27, 2006; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999) and to the 30 Tex. Admin. Code. Chapter 330 rules in effect before the 2006 Revisions.

IV. EVALUATION PROCESS FOR HEARING REQUESTS

The regulations governing requests for contested case hearings are found at Title 30, Texas Administrative Code, Chapter 55. Section 55.201(c) and (d) require that a request for contested case hearing be in writing; be timely filed; ask for a contested case hearing; provide the name, address, daytime telephone number, and fax number, if possible, of the person who files the request; and raise disputed issues.

In addition to requesting a contested case hearing, a person must be an *affected person* as that term is defined in 30 Tex. Admin. Code § 55.203(a).

For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

Section 55.203(c) lists factors to consider in determining whether a person is an affected person, including the following:

- 1) whether the interest claimed is one protected by the law under which the application will be considered,
- 2) distance restrictions or other limitations imposed by law on the affected interest,
- 3) whether a reasonable relationship exists between the interest claimed and the activity regulated,
- 4) likely impact of the regulated activity on the health and safety of the person and on the use of the property of the person,
- 5) likely impact of the regulated activity on use of the impacted natural resource by the person, and
- 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

In addition to the individual persons, the rule also allows government entities, including local governments and public agencies with authority under state law over issues raised by the application, to be considered affected persons. 30 Tex. Admin. Code § 55.203(b)

If the Commission determines that the hearing request is timely and that the requestor is an affected person, the Commission applies the following test to the issues raised to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing.

- 1) Does the issue involve questions of fact, not questions strictly of law or policy?
- 2) Was the issue raised during the public comment period?
- 3) Was the issue not withdrawn?
- 4) Is the issue relevant and material to the Commission's decision on the application?

V. ANALYSIS OF THE HEARING REQUESTS

Requestors in this case fall into five categories: individuals, businesses, neighborhood associations, petitioners, and local elected state officials. All request letters were filed timely and provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern, as required by 30 Tex. Admin. Code ("TAC") § 55.201(c) and (d). No issues were withdrawn by any commenters.

Affected Person Status

A. Individuals

1. **Joyce Best**

Ms. Best sent 3 timely comment letters during the comment period and 1 hearing request letter received November 11, 2007. Ms. Best moved 10 miles from the facility in July 2006 but formerly resided at a residence 1.5 miles from the BFI landfill. She is a member of the NorthEast Action Group (NAG) but did not indicate that she was making the request on behalf of NAG.

Ms. Best correctly states that she "was an affected party during the time I lived near the landfill." However, she no longer has an individual justiciable interest that qualifies her as an affected person under TCEQ's rules. Neither the Solid Waste Disposal Act or the MSW rules specify a distance around a landfill where persons would be considered to be affected. However, 30 TAC §§ 55.203 (c)(4) and (5) require a likely impact on health, safety, and use of the property of an affected person, as well as a likely impact on use of the impacted natural resource of an affected person. It is unlikely the proposed expansion will impact Ms. Best at her current residence 10 miles away.

The Executive Director concludes that Joyce Best is not an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4). However, she may participate in any hearing granted as a member of NorthEast Action Group.

2. **Amy Kersten**

Ms. Kersten lives about 1 mile from the BFI landfill. She provided comments during the comment period and submitted a hearing request

During the public meeting, Ms. Kersten expressed concern about odors, gases, leachate, contaminated groundwater, windblown trash, truck traffic, endangered species, and poor landfill planning and logistics. Her hearing request reiterated these same concerns, as well as a concern for human health and the environment. Based on the close proximity of her residence to the facility and the nature of her concerns, Ms. Kersten has a personal justiciable interest affected by the expansion application.

The Executive Director concludes that Amy Kersten is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4).

3. Nora Longoria

Ms. Longoria lives within 1 mile of the facility. She did not provide comments during the comment period but requested a hearing.

Her hearing request indicates that personal enjoyment of her property is adversely affected by nuisance conditions and traffic problems created by BFI's landfill operations. Based on the close proximity of her residence to the facility and the nature of her concerns, Ms. Longoria has a personal justiciable interest affected by the expansion application.

The Executive Director concludes that Nora Longoria is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4).

4. Anne and Bill McAfee

Mrs. McAfee submitted a comment letter and hearing request within the comment period. She and her husband live about 10 miles southwest of the facility. She expressed concern for parents and school children affected by odors and birds attracted to the facility.

However, she provided no personal justiciable interest affected by the expansion application. Sections 55.203 (c)(4) and (5) require a likely impact on health, safety, and use of the property of an affected person, as well as a likely impact on use of the impacted natural resource of an affected person. It is unlikely the proposed expansion will impact Mr. and Mrs. McAfee at their residence 10 miles away.

The Executive Director concludes that Anne and Bill McAfee are not affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

5. Rosemary and Alto Nauert

Mr. and Mrs. Nauert submitted a hearing request and written comments. They live about ½ mile from the facility. Their hearing request indicates that they have experienced nuisance odors on an increased frequency, as well as adverse health effects associated with those odors. They also complained about having to dodge windblown trash from the landfill along their route to work. They expressed concern about contaminated groundwater and water quality contributing to declining fish populations in Lake Walter E. Long, which is approximately 1.8 miles away.

Based on the close proximity of their residence to the facility and the nature of their concerns, Mr. and Mrs. Nauert have personal justiciable interests affected by the expansion application.

The Executive Director concludes that Rosemary and Alto Nauert are affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

6. Dr. Delmer Rogers

Dr. Rogers submitted written comments and a hearing request during the comment period. He lives about 1 ½ miles from the facility. He indicates that when he drives on Blue Goose Road which borders the facility on the north, he smells foul odors from the landfill. Dr. Rogers also expressed concern about methane gas emissions, water pollution, soil erosion, and habitat destruction.

Based on the reasonably close proximity of his residence to the facility and his driving on roads next to the facility, Dr. Rogers has a personal justiciable interest affected by the expansion application.

The Executive Director concludes that Dr. Delmer Rogers is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4).

7. Mike and Ramona Rountree

Mr. and Mrs. Rountree submitted a hearing request and oral comments during the comment period. They live about ½ mile from the facility. They assert that the facility will impact human health and the environment, and that the landfill has changed the lives of their family. They point out that their 8-year old daughter has difficulty breathing when she attempts to play at school or in the family yard. They complain of foul odors which disturb sleep and family gatherings, as well as increase their utility bills from having to run 4 air purifiers constantly. They have also observed mud from the landfill as they drive along Giles Road, which borders the site to the east.

Based on the close proximity of their residence to the facility and the health-related nature of their concerns, Mr. and Mrs. Rountree have a personal justiciable interest affected by the expansion application.

The Executive Director concludes that Mike and Ramona Rountree are affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

8. Roy and Janet Smith

Roy and Janet Smith submitted written comments and a hearing request during the comment period. They live less than 1 mile from the facility. They indicate that they have personally experienced many environmental problems associated with the landfill.

Issues they raised include: wanting the landfill to close; odors; windblown trash, unsafe BFI truck traffic; illegal dumping by people who don't want to pay landfill fees; nuisance birds and health problems associated with them; dust; lights from night operations; lack of landscape screening; and runoff.

Based on the close proximity of their residence to the facility and the nature of their concerns, Mr. and Mrs. Smith have a personal justiciable interest affected by the expansion application. The Executive Director concludes that Roy and Janet Smith are affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

9. Cecil and Evelyn Remmert

Cecil and Evelyn Remmert submitted 2 written comments and a hearing request during the comment period. They live just under 1 mile from the facility. They indicate that they have personally experienced nauseating odors that interfere with enjoyment of their property. They are also concerned about the fair market value of their property.

Issues they raised are: land use; odors; noise; windblown trash; nuisance flies and birds; unsafe BFI truck traffic; "other violations at the landfill"; soil erosion; cracks in the landfill cover; gas emissions; TCEQ inspections for compliance with regulations; integrity of landfill liner; protection of groundwater; toxicity of wastes; closure of landfill; identity and responsibility of applicant.

Property values are outside the jurisdiction of the TCEQ. However, based on the close proximity of their residence to the facility and the nature of their other concerns, Mr. and Mrs. Remmert have a personal justiciable interest affected by the expansion application

The Executive Director concludes that Cecil and Evelyn Remmert are affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

B. Businesses

1. TJFA, L.P.

Mr. Dennis Hobbs filed a timely comment letter on behalf of TJFA, L.P., a real estate investment company. TJFA owns 11 acres about 1 mile north of the facility. Mr. Hobbs does not provide the address of the property. Mr. Hobbs also does not indicate his relationship to the business. He states that the use and value of TJFA's property will be adversely affected by the expansion.

TJFA may be an affected person as far as the use of its property is concerned. However, property value is outside the scope of TCEQ's jurisdiction.

Issues raised include: adverse impacts (odors, dust, windblown debris, vectors, noise, traffic, methane gas migration, and contaminated groundwater migration) on use of its property; compliance history; regulatory variances; leachate management and safety of leachate system; adequacy of engineering seals for application materials; land use compatibility; traffic and roads; adequacy of Site layout Plan as for showing buffer zones, perimeter access road, and easements; deficiencies of the Geotechnical Report, including permeability of recompacted soils; deficiencies of the Groundwater Investigation Report, including adequacy of subsurface characterization and potential for contaminant migration; sufficiency of final cover depth; identification of applicant; adequacy of soil and liner quality control plan; need for gas monitoring probes along the common boundary of BFI and Waste Management's Austin

Community Landfill; adequacy of the leachate and contaminated water plan; enforceability of permit expiration; waste acceptance rate; adequacy of the Fire Protection Plan; depiction on maps of and adequacy of easements and buffer zones; sufficiency of Odor Management Plan; frequency of inspections for erosion of final and intermediate covers; use of alternate daily cover; inconsistencies in application materials related to cover inspection and erosion repair; adequacy of liner stability analyses; and adequacy of geomembrane installation.

The Executive Director concludes that TJFA, L.P. has not fully demonstrated that it may be an affected person under 30 TAC §§ 55.203(a) and c(1) - (4) as far as use of property. The Executive Director recommends that TJFA be granted affected party status, conditional upon: timely receipt of additional information that Mr. Hobbs owns an interest in, or has authority to act on behalf of, this business; and further information showing the location of TJFA's property.

2. Barr Mansion and Artisan Ballroom

Melanie and Mark McAfee submitted 2 jointly written comment letters and 2 separate hearing requests as owners of an events facility and catering business operating in the Barr Mansion and Artisan Ballroom (Barr Mansion). The Barr Mansion is located about 1 mile west of the landfill.

Issues they raised are: compliance history; adverse health effects on family, employees, and friends; adverse impact on the business from lack of screening at the facility; land use; historic dumping of hazardous wastes at the landfill; and environmental justice.

The Executive Director concludes that the Barr Mansion owned by Melanie and Mark McAfee is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4).

3. Pioneer Farms Board of Governors and Celeste Scarborough

Celeste Scarborough, Grant Coordinator, submitted written comments and a hearing request on behalf of the Pioneer Farms Board of Governors (Pioneer Farms) and her family during the comment period. Pioneer Farms is located about 1.9 miles from the facility. The issue raised during the comment period is that the expansion would deter visitors and their donations which are critical to this historic farm and its educational programs.

Ms. Scarborough lives 2 1/2 miles to the northwest of the facility. She indicates that she experiences strong odors and nuisance birds, which she attributes to the BFI landfill. Her children do not attend the elementary school near the landfill expressly to avoid exposure to odors, which costs her family \$8000 annually for private education.

Any detrimental economic harm claimed by Pioneer Farms is speculative in nature and falls outside the jurisdiction of the TCEQ. In addition, §§ 55.203 (c)(4) and (5) require a likely impact on health, safety, and use of the property of an affected person, as well as a likely impact on use of the impacted natural resource of an affected person. It is unlikely the proposed expansion will impact either Pioneer Farms or Mrs. Scarborough at her residence 2 1/2 miles away.

The Executive Director concludes that Pioneer Farms Board of Governors and Celeste Scarborough are not affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

4. Williams, Ltd, and Roger Joseph

Mr. Evan Williams submitted a hearing request and written comments within the comment period. Mr. Williams stated that he represents Williams, Ltd. and Roger Joseph who jointly own property adjacent to the facility along the west side of Blue Goose Road.

Mr. Williams claims that his property interests will be directly and negatively impacted by the expansion. He argued that BFI's erosion controls are insufficient because fences on the Williams/Joseph property have been knocked down by the water flowing off BFI's landfill. In addition, Mr. Williams claims that landfill runoff has substantially eroded his property and its perimeter roads.

The Executive Director concludes that Williams, Ltd and Roger Joseph are affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4).

C. Neighborhood Associations

A group or association may request a contested case hearing only if the group or association meets all of the following requirements: (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right, (2) the interests the group or association seeks to protect are germane to the organization's purpose, and (3) neither the claim asserted nor the relief requested requires the participation of the individual members in this case. 30 TAC § 55.205(a).

1. **Harris Branch Residential Property Owners Association**, as represented by Jeremiah Bentley, President. In two letters, Mr. Bentley indicates that he represents himself and other property owners in this organization. He did not specify the address of any members, but he stated that hundreds of the property owners live within 1 mile of the facility, while most live within 2.5 miles of the facility.

The issues he raised are: nuisance odors, water pollution from runoff, lack of protection of human health (nauseous school children), soil erosion and silting of collection ponds, and inconsistency with surrounding land use.

The Executive Director concludes that the Harris Branch Residential Property Owners Association is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4) and has satisfied the conditions for organizational standing under 30 TAC § 55.205.

2. **Northeast Neighbors Coalition (NNC)**, represented by Mary Carter of the law firm Blackburn Carter. Ms. Carter states that the NNC is a non-profit corporation consisting of persons who live near the facility and who would be affected by the proposed expansion. Ms.

Carter states that one purpose of the NNC is to provide civic and educational information to neighbors who live in the vicinity who are affected by the landfill.

She indicates that Evelyn Remmert, a member of the NNC, owns 104 acres adjoining the landfill to the north. She claims that Mrs. Remmert has personal justiciable interests related to the economic interests of her property and that those interests are adversely affected by the proposed facility in a manner not common to the general public. According to Ms. Carter, neither the claim asserted nor the relief requested requires the participation of individual members of NNC.

The issues she raised are: applicant identification and responsibility, land use compatibility, surface water drainage and the application of the new Chapter 330 rules to this issue; soil erosion, cover inspection, and erosion repair; alternate daily cover; suitability of materials for landfill construction; contaminant migration; storage, treatment, and disposal of contaminated runoff water; soil and liner quality control plan which does not address specific conditions at the site; landfill gas collection systems not being protective of human health and the environment; flawed demonstration of no significant alteration of natural drainage patterns; malfunctioning leachate collection system and sump; permit term and expiration, and compliance history.

The Executive Director concludes that the Northeast Neighbors Coalition is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4) and has satisfied the conditions for organizational standing under 30 TAC §§ 55.205.

3. NorthEast Action Group (NAG), represented by Ms. Trek English. Ms. English submitted two timely comment letters and a hearing request letter on behalf of NAG. She indicates that NAG has worked on landfill issues since its inception in 2000. According to Ms. English, one or more members of the group live within a mile or more of the facility and will be directly affected by the expansion. Ms. English does not name a particular individual for verification purposes. Ms. English lived about a mile from the facility for 26 years and was actively involved in NAG until she moved to Arlington, Texas in August 2007. She seeks to be declared an affected person because she will “continue to be affected” by the operations of the facility and is frequently called by former neighbors to assist with issues related to the facility.

Issues she raised include: whether BFI should comply with new Chapter 330 standards; compliance and complaint history; traffic, roads, and transportation plan; nuisance conditions (including air pollution, odors, dust, litter, intrusive lighting, noise, and vibrations); expansion’s cumulative impacts on ongoing site operations at both the BFI facility and the adjacent Austin community landfill facility; outdated application materials and discrepancies in application; applicant identification and responsibility; land use compatibility; inadequate landscape screening and buffer zone; leachate collection system and landfill liners; gas collection system and release of emissions; fire protection plan; soil cover plan and working face (including slope stability, stockpiling of dirt, contaminated runoff, site hydrology, and revegetation of disturbed areas); facility design, construction, and operations; surface water drainage, sedimentation, and erosion control; control of windblown waste; buffer zones; disease and vector control; waste acceptance rate, disposal, and compaction of wastes (including: industrial, sludges, liquids, special wastes, hazardous wastes from conditionally exempt small quantity generators, asbestos,

contaminated soils, prohibited and radioactive wastes); groundwater quality, monitoring, and protection; protection of wetlands and floodplain areas; unauthorized discharges to creeks and recreational lake areas; interference with wildlife habitats; threats to human health and the environment (including adverse impacts on residents and children at day-care centers and schools); financial assurance; facility closure; and inadequacies of draft permit.

The Executive Director concludes that the Northeast Action Group is an affected person under 30 TAC §§ 55.203(a) and (c)(1) - (4) and has satisfied the conditions for organizational standing under 30 TAC §§ 55.205.

D. Petitioners

Forty-three individuals signed a petition stating that they oppose the expansion and request a contested case hearing. Petitioners provided their names, addresses, and phone numbers. The petition is attached to a cover letter from Joyce Best, which states that the petitioners either live or work in the area near the landfill. The cover letter raises these issues: odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill.

The Petitioners may be grouped into three categories:

Category A (Within 1 mile)

- (1) Lionel Bess
- (2) Amber Luttig-Buonodono, Pam and Allan Luttig, Tony Buonodono
- (3) Terry Cainal, Amy Williamson
- (4) Lee Cook
- (5) Sean Cottle
- (6) Chuck Dabbs
- (7) James Daniel
- (8) Melissa Fields
- (9) Tim Fleetwood
- (10) Ron And Cam Junker
- (11) Nora Longoria
- (12) James Marchak
- (13) Merry Rightmer
- (14) Mike and Ramona Rountree
- (15) Jeffrey Seider
- (16) Vu Tran
- (17) David Williams

Category B (Within 2 miles)

- (21) Dan Pyka
- (22) Cloyce Spradling
- (23) Roland Valles
- (24) Jeremy and Karen Vest
- (25) Murk Wilkerson
- (26) Michael S. Young

Category C (Beyond 2 miles)

- (31) Ed Attra and Rebecca Martinez
- (32) Susan Morgan
- (33) Sherry Pyle
- (34) Georgia Rich
- (35) Celeste Scarborough
- (36) Joyce Best (lives 10 miles away, not on map)

The Executive Director concludes that Petitioners in Category A and most of the Petitioners in Category B are affected persons under 30 TAC §§ 55.203(a) and (c)(1) - (4) and the group satisfies the conditions for organizational standing under 30 TAC § 55.205.

VI. DURATION OF THE CONTESTED CASE HEARING

The Executive Director recommends that the duration for a contested case hearing on this matter, from preliminary hearing to the presentation of a proposal for decision before the Commission, be twelve months.

VII. EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends the following actions by the Commission:

Find that the interests asserted by the individuals, businesses, organizations, and petitioners summarized in the attached chart include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules, because a reasonable relationship exists between their interests and the proposed landfill expansion due to the proximity of the proposed site from their respective properties or activities.

The Executive Director recommends that the following issues be referred to SOAH for a proceeding of twelve months:

1. Whether the application demonstrates that natural drainage patterns will not be significantly altered by the expansion in accordance with agency rules, including 30 TAC §330.56(f)(4)(A)(iv).
2. Whether the application includes adequate provisions to control disease vectors in compliance with agency rules, including 30 TAC §330.126 and 330.133(a).
3. Whether the application proposes adequate protection of ground water and surface water in compliance with agency rules, including 30 TAC §§ 330.55(b)(1), 330.56(f), 330.134 and 330.200-206.
4. Whether the application includes adequate provisions to control odors in compliance with agency rules, including 30 TAC §§ 330.125(b) and 330.133(a).

5. Whether the application includes adequate provisions to manage landfill gas in compliance with agency rules, including 30 TAC §§ 330.56(n) and 330.130.
6. Whether the application includes adequate provisions for proper slope stability in compliance with agency rules, including 30 TAC §§ 330.55(b)(8), and 330.56(l).
7. Whether the application includes adequate provisions to control spilled and windblown waste and cleanup spilled waste in compliance with agency rules, including 30 TAC §§ 330.117, 330.120, 330.123, and 330.127.
8. Whether the application includes adequate provisions for groundwater monitoring in compliance with agency rules, including 30 TAC §§ 330.230-233.
9. Whether the application includes adequate provisions calculating the estimated rate of solid waste deposition and operating life of the site in compliance with agency rules, including 30 TAC § 330.55(a)(4).
10. Whether the application includes adequate provisions for closure and post-closure in compliance with agency rules, including 30 TAC §§ 330.56(l) and (m).
11. Whether the application includes adequate provisions to manage and dispose of special waste in compliance with agency rules, including 30 TAC §330.136.
12. Whether the application includes adequate provisions designating the owner, operator, responsible parties, and qualified personnel in compliance with agency rules, including 30 TAC §§330.52(a)(1), 330.52(b)(7-10), and 330.114(1).
13. Whether the application includes adequate provisions to prevent unauthorized wastes from being disposed in the landfill in compliance with agency rules, including 30 TAC §330.114(5).
14. Whether the application provides adequate information related to transportation as required by agency rules, including 30 TAC §330.53(b)(9).
15. Whether the application includes adequate provisions for dust control and maintenance of site access roads in compliance with agency rules, including 30 TAC § 330.127.
16. Whether the application includes adequate provisions to protect endangered or threatened species in compliance with agency rules, including 30 TAC §§ 330.53(b)(13) and 330.129.
17. Whether the application includes adequate provisions for cover in compliance with agency rules, including 30 TAC §330.133.

18. Whether the application should be denied based on the Applicant's compliance history in accordance with state laws and agency rules, including Texas Health & Safety Code 361.089 and 30 TAC §305.66.
19. Whether the application includes adequate provisions for fire protection in accordance with agency rules, including 30 TAC §330.115.
20. Whether the applicant has complied with financial assurance requirements in accordance with agency rules, including 30 TAC §330.52(b)(11) and 330.281.
21. Whether the proposed expansion is compatible with land use in the surrounding area.
22. Whether the provisions proposed for buffer zones and landscape screening comply with agency rules, including 30 TAC §§330.121(b) and 330.138.
23. Whether the application proposes sufficient provisions to protect public health and the environment, and to avoid causing a nuisance in violation of commission rules, including 30 TAC §330.5(a)(2).

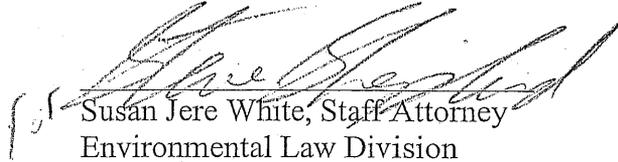
The disputed issues presented above involve a question of fact as opposed to a question of law, were raised during the comment period, and are relevant and material to the Commission's decision on this application. The Executive Director concludes that these issues are appropriate to refer to the State Office of Administrative Hearings.

The following issues are **not** appropriate for referral to SOAH.

1. Whether the BFI application should comply with the new Chapter 330 rules rather than the existing rules under which BFI filed the application for the expansion at Sunset Farms. This issue only raises a question of law.
2. Whether the BFI application will adversely affect property values. This issue only raises a question of law and is not relevant and material to the decision on the application.
3. Whether the BFI application will impose detrimental economic harm on the viability of a business and donations by visitors. This issue only raises a question of law and is not relevant and material to the decision on the application.

The Executive Director concludes that these issues are **not** appropriate to refer to the State Office of Administrative Hearings.

Respectfully submitted,



Susan Jere White, Staff Attorney
Environmental Law Division
State Bar No. 21350120
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-0464



Steven Shepherd, Staff Attorney
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State Bar No. 18224200
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-0464

Representing the Executive Director of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2008, the foregoing was sent by first-class mail, agency mail, or facsimile to all persons on the attached mailing list.


for Steve Shepherd, Staff Attorney
Environmental Law Division, MC 173

BFI Sunset Farms Landfill
TCEQ MSW Permit No. 1447A
Mailing List

FOR THE APPLICANT:

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South Central Texas District Manager
BFI Waste Systems of North America,
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San Antonio, Texas 78222-3925
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Fax: (512) 648-5227

Ray L. Shull, P.E., President
Associated Consulting Engineers
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FOR THE EXECUTIVE DIRECTOR:

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FOR PUBLIC INTEREST COUNSEL:

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FOR OFFICE OF PUBLIC
ASSISTANCE:

Ms. Bridget Bohac, Director
Texas Commission on Environmental
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RESOLUTION:

Mr. Kyle Lucas
Texas Commission on Environmental
Quality, MC 222, P.O. Box 13087
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FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental
Quality, MC 105, Office of the Chief
Clerk, P.O. Box 13087
Austin, Texas 78711
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BFI Sunset Farms Landfill
TCEQ MSW Permit No. 1447A
Mailing List

COMMENTERS:

The Honorable Mark Strama
Texas House of Representatives
District 50
P.O. Box 12068
Austin, Texas 78711

The Honorable Kirk Watson
State Senator for Senate
District 14
P.O. Box 12068
Austin, Texas 78711

Jeremiah Bentley
*Harris Branch Residential Property
Owners Association*
12100 Kilmartin Lane
Manor, Texas 78653

Joyce Best
4001 Licorice Lane
Austin, Texas 78728

Mary W. Carter
Northeast Neighbors Coalition
Blackburn Carter P.C.
4709 Austin Street
Houston, Texas 77004

B. Trek English
NorthEast Action Group
3616 Quietie Drive
Austin, Texas 78754

B. Trek English
NorthEast Action Group
3705 Toby Ct.
Arlington, Texas 76001

Dennis Hobbs
TJFA, L.P.
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Austin, Texas 78760

Amy Kersten
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Austin, Texas 78754

Nora Longoria
7005 Dagon Drive
Austin, Texas 78754

Anne C McAfee
4831 Timberline Drive
Austin, Texas 78746

Mark & Melanie McAfee
Barr Mansion and Artisan Ballroom
6315 Spicewood Springs Road
Austin, Texas 78759

Alto & Rosemary Nauert
11201 AusTex Acres Lane
Manor, Texas 78653

Cecil & Evelyn Remmert
11815 Cameron Road
Manor, Texas 78653

Dr. Delmer Rogers
5901 Speyside Drive
Manor, Texas 78653

Mike & Ramona Rountree
6920 Thistle Hill Way
Austin, Texas 78754

BFI Sunset Farms Landfill
TCEQ MSW Permit No. 1447A
Mailing List

COMMENTERS:

Celeste Scarborough
*Pioneer Farms Board of Governors and
Celeste Scarborough*
1632 Payton Falls Drive
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11815A Cameron Road
Manor, Texas 78653

Evan M. Williams
Williams, Ltd, and Roger Joseph
P.O. Box 2144
Austin, Texas 78768

Ron Davis
Travis County Commissioner, Precinct 1
Travis County Administrative Bldg.
P.O. Box 1748, Room 510
Austin, Texas 78767

Sarah Eckhardt
Travis County Commissioner, Precinct 2
Travis County Administrative Bldg.
P.O. Box 1748, Room 530
Austin, Texas 78767

Neil Carman, Ph.D.
Lone Star Chapter Sierra Club
Clean Air Program Director
1202 San Antonio Street
Austin, Texas 78701

ATTACHMENT A

Summary Chart of Requesters, their status as affected persons, and their issues raised during the comment period.

SUMMARY OF AFFECTED PERSONS CHART -- BFI SUNSET FARMS MSW LANDFILL EXPANSION

Type of Requestor	Name of Requestor	Is Requestor an Affected Person?	Miles from BFI	Disputed Issues *
INDIVIDUALS	Joyce Best	No	10	
	Amy Kersten	Yes	1	odors, gases, leachate, contaminated groundwater, windblown trash, truck traffic, endangered species, and poor landfill planning and logistics
	Nora Longoria	Yes	1	nuisance conditions and traffic problems
	Anne and Bill McAfee	No	10	
	Rosemary and Alto Nauert	Yes	0.5	nuisance odors, adverse health effects associated with those odors, windblown trash, contaminated groundwater, and water quality contributing to declining fish populations
	Dr. Delmer Rogers	Yes	1.5	smells foul odors, concerned about methane gas emissions, water pollution, soil erosion, and habitat destruction
	Mike and Ramona Rountree	Yes	0.5	human health issues, foul odors which disturb sleep and family gatherings, increase of utility bills from having to run 4 air purifiers constantly
	Roy and Janet Smith	Yes	1	closure of landfill, odors, windblown trash, unsafe BFI truck traffic, illegal dumping by citizens who don't want to pay landfill fees; nuisance birds and health problems associated with them; dust; lights from night operations; lack of landscape screening; and runoff
	Cecil and Evelyn Remmert	Yes	1	land use; odors; noise; windblown trash; nuisance flies and birds; unsafe BFI truck traffic; "other violations at the landfill"; soil erosion; cracks in the landfill cover; gas emissions; TCEQ inspections for compliance with regulations; integrity of landfill liner; protection of groundwater; toxicity of wastes; closure of landfill; identity and responsibility of applicant
BUSINESSES	TJFA, LP, represented by Dennis Hobbs	Yes, conditional on more information being submitted on relationship of Hobbs to TJFA, LP	1	adverse impacts (odors, dust, windblown debris, vectors, noise, traffic, methane gas migration, and contaminated groundwater migration) on use of its property; compliance history; regulatory variances; leachate management and safety of leachate system; adequacy of engineering seals for application materials; land use compatibility; traffic and roads; adequacy of Site Layout Plan as for showing buffer zone, perimeter access road, and easements; deficiencies of the Geotechnical Report, including permeability of recompacted soils; deficiencies of the Groundwater Investigation Report, including adequacy of subsurface characterization and potential for contaminant migration; sufficiency of final cover depth; identification of applicant; adequacy of soil and liner quality control plan; need for gas monitoring probes along the common boundary of BFI and the Austin Community Landfill; adequacy of the leachate and contaminated water plan; enforceability of permit expiration; waste acceptance rate; adequacy of the Fire Protection Plan; depiction on maps of and adequacy of easements and buffer zones; sufficiency of Odor Management Plan; frequency of inspections for erosion of final and in
	Barr Mansion and Artisan Ballroom	Yes	1	compliance history; adverse health effects on family; employees, and friends; adverse impact on the business from lack of screening at the facility; land use; historic dumping of hazardous wastes at the site; and environmental justice
	Pioneer Farms Board of Governors and Celeste Scarborough	No	2.5	the expansion would deter visitors and their donations which are critical to this historic farm and its educational programs
	Williams, Ltd., and Roger Joseph	Yes	adjacent property	Claims his property interests will be directly and negatively impacted by the expansion; that BFI's erosion controls are insufficient because fences on the Williams/Joseph property have been knocked down by the water flowing off BFI's landfill, and that landfill runoff has substantially eroded his property and its perimeter roads
NEIGHBORHOOD ASSOCIATIONS	Harris Branch Residential Property Owners Association	Yes	adjacent to 1.5	nuisance odors, water pollution from runoff, lack of protection of human health (nauseous school children), soil erosion and silting of collection ponds, and inconsistency with surrounding development
	Northeast Neighbors Coalition	Yes	adjacent property	applicant identification & responsibility, land use compatibility, surface water drainage and the application of new Chapter 330 rules to this issue; soil erosion, cover inspection, and erosion repair; alternate daily cover; suitability of materials for landfill construction; contaminant migration; storage, treatment, and disposal of contaminated runoff water; soil and liner quality control plan which does not address specific conditions at the site; landfill gas collection systems not protective of human health and the environment; flawed demonstration of no significant alteration of natural drainage patterns; malfunctioning leachate collection system and sump; permit term and expiration, and compliance history

SUMMARY OF AFFECTED PERSONS CHART -- BFI SUNSET FARMS MSW LANDFILL EXPANSION

Type of Requestor	Name of Requestor	Is Requestor an Affected Person?	Miles from BFI	Disputed Issues *
	NorthEast Action Group (NAG)	Yes	1 or more within 1 mile	traffic, roads, and transportation plan; nuisance conditions (including air pollution, odors, dust, litter, intrusive lighting, noise, and vibrations); cultural, scientific, and biological resources (this seems to nebulous-recommend we delete); expansion's cumulative impacts on ongoing site operations at both the BFI facility and the adjacent Austin community landfill facility; outdated application materials and discrepancies in application; applicant identification and responsibility; land use compatibility; inadequate landscape screening and buffer zone; leachate collection system and landfill liners; gas collection system and release of emissions; fire protection plan; soil cover plan and working face (including slope stability, stockpiling of dirt, contaminated runoff, site hydrology, and revegetation of disturbed areas); facility design, construction, and operations; surface water drainage, sedimentation, and erosion control; control of windblown waste; buffer zones; disease and vector control; waste acceptance rate, disposal, and compaction of wastes (including: industrial, sludges, liquids, special wa
PETITIONERS: Category A (Within 1 mile)				
	Lionel Bess	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Amber Luttig-Bounodono, Pam and Alan Luttig, Tony Bounodono	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Terry Cainal, Amy Williamson	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Lee Cook	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Sean Cottle	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Chuck Dabbs	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	James Daniel	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Melissa Fields	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Tim Fleetwood	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Ron and Cam Junker	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Nora Longoria	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	James Marchak	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Merry Rightmer	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Mike and Ramona Rountree	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Jeffrey Seider	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Vu Tran	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	David Williams	Yes	within 1 mile	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
PETITIONERS: Category B (from 1 to 2 miles)				
	Dan Pyka	Yes	within 1-2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Cloyce Spradling	Yes	within 1-2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Roland Valles	Yes	within 1-2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Jeremy and Karen Vest	Yes	within 1-2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill

SUMMARY OF AFFECTED PERSONS CHART -- BFI SUNSET FARMS MSW LANDFILL EXPANSION

Type of Requestor	Name of Requestor	Is Requestor an Affected Person?	Miles from BFI	Disputed Issues *
	Murk Wilkerson	Yes	within 1-2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Michael S. Young	Yes	within 1-2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
PETITIONERS: Category C (beyond 2 miles)	Ed Attra and Rebecca Martinez	No	beyond 2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Susan Morgan	No	beyond 2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Sherry Pyle	No	beyond 2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Georgia Rich	No	beyond 2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Celeste Scarborough	No	beyond 2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
	Joyce Best (lives 10 miles away, not on map)	No	beyond 2 miles	odors, traffic, dust, windblown trash, and "other problems" related to the operation of the landfill
ELECTED OFFICIALS	Mark Strama, State Representative for House District 50	No	10	Joint letter by Rep. Strama and Sen. Watson did not ask for a hearing; issues discussed include: excessive noise; foul odors that impact residents and employees, including staff and children of Bluebonnet Trail Elementary School; transportation, traffic, and road construction impacts; long history of citizen complaints about BFI's operations; surface water impacts on area lakes; drainage problems; inadequate landfill liner; and adequacy of buffers
	Kirk Watson, State Senator for Senate District 14	No	10	Joint letter by Rep. Strama and Sen. Watson did not ask for a hearing; issues discussed include: excessive noise; foul odors that impact residents and employees, including staff and children of Bluebonnet Trail Elementary School; transportation, traffic, and road construction impacts; long history of citizen complaints about BFI's operations; surface water impacts on area lakes; drainage problems; inadequate landfill liner; and adequacy of buffers

ATTACHMENT B

Map showing the location of residences or businesses of hearing requesters within 1 and 2 miles.

Location of Hearing Requestors

BFI-Sunset Farms MSW Facility Permit No. 1447A



Protecting Texas by
Reducing and
Preventing Pollution
Texas Commission on
Environmental Quality
GIS Team (Mail Code 197)

P.O. Box 13087
Austin, Texas 78711-3087
January 23, 2008

Hearing Requestors within 1-Mile Radius

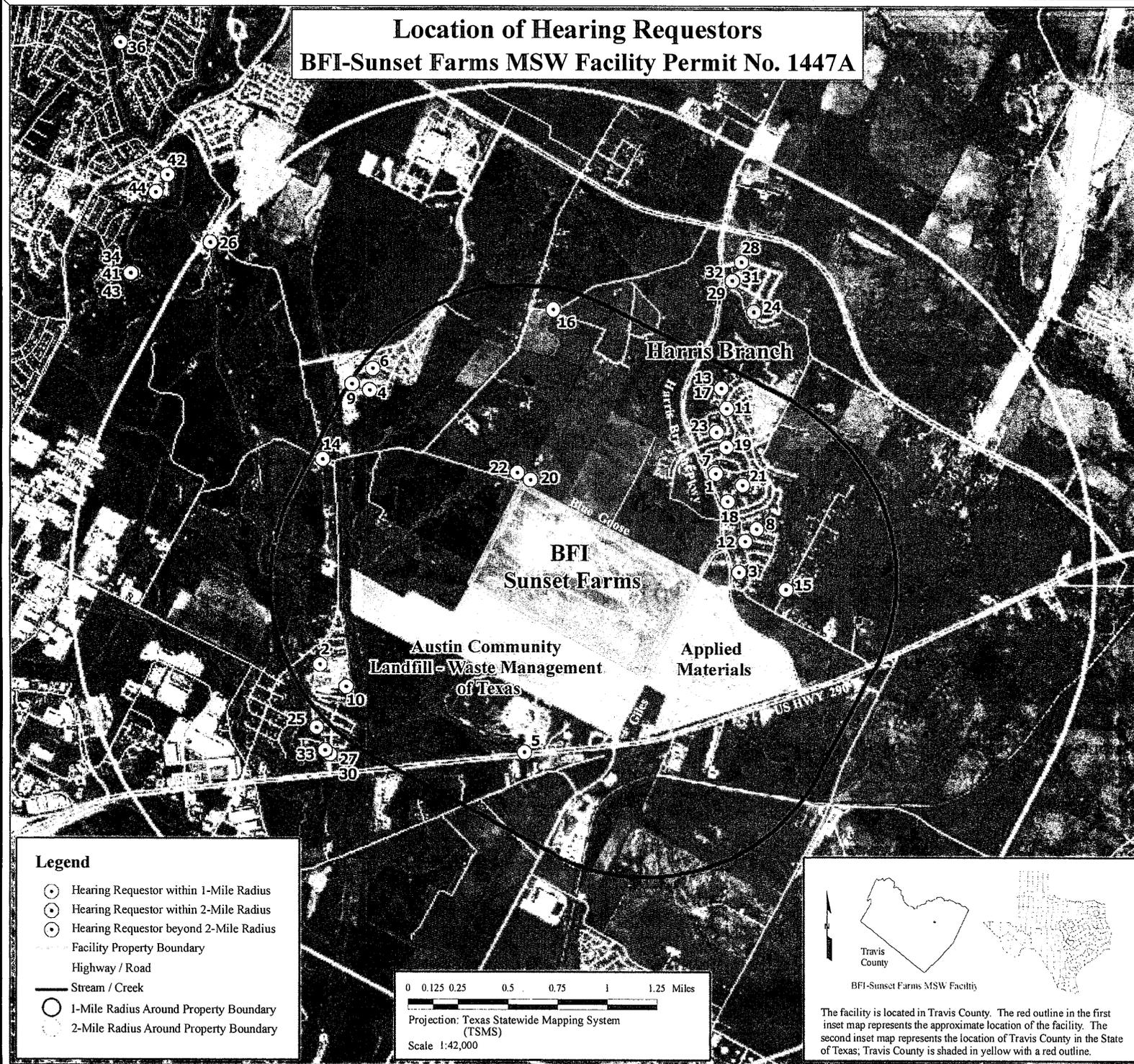
- (1) Kathryn Albee
- (2) Lionel Bess
- (3) Amber Luttig-Buonodono, Pam and Allan Luttig, Tony Buonodono
- (4) Terry Cainal, Amy Williamson
- (5) Lee Cook
- (6) Sean Cottle
- (7) Chuck Dabbs
- (8) James Daniel
- (9) Melissa Fields
- (10) Tim Fleetwood
- (11) Ron And Cam Junker
- (12) Nora Longoria
- (13) James Marchak
- (14) Barr Mansion
- (15) Alto S. and Rosemary Nauert
- (16) Cecil and Evelyn R Emmert, Janet and Roy Smith Jr.
- (17) Merry Rightmer
- (18) Mike and Ramona Rountree
- (19) Jeffrey Seider
- (20) TJFA, L.P.
- (21) Vu Tran
- (22) Williams, LTD
- (23) David Williams

Hearing Requestors within 2-Mile Radius

- (24) Jeremiah Bentley
- (25) Amy Kersten
- (26) Pioneer Farms
- (27) Dan Pyka
- (28) Delmer D. Rogers
- (29) Cloyce Spradling
- (30) Roland Valles
- (31) Jeremy and Karen Vest
- (32) Mark Wilkerson
- (33) Michael S. Young

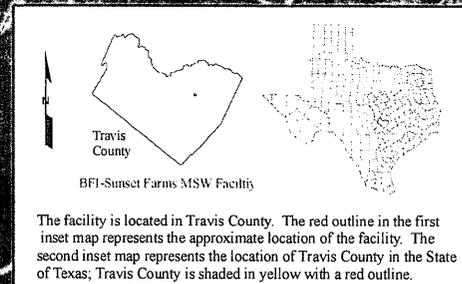
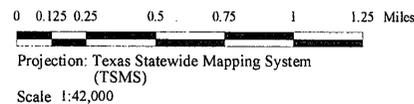
Hearing Requestors beyond 2-Mile Radius

- (34) Ed Attra and Rebecca Martinez
- (35) Joyce Best (off map)
- (36) Jocelyn Doherty
- (37) David Gunlock (off map)
- (38) Mary Lehman (off map)
- (39) Weldon Long (off map)
- (40) Bill and Anne Mc Afee (off map)
- (41) Susan Morgan
- (42) Sherry Pyle
- (43) Georgia Rich
- (44) Celeste Scarborough
- (45) Elizabeth Trevino (off map)
- (46) Alfred Wendland (off map)



Legend

- Hearing Requestor within 1-Mile Radius
- Hearing Requestor within 2-Mile Radius
- Hearing Requestor beyond 2-Mile Radius
- Facility Property Boundary
- Highway / Road
- Stream / Creek
- 1-Mile Radius Around Property Boundary
- 2-Mile Radius Around Property Boundary



Location of Hearing Requestors

BFI-Sunset Farms MSW Facility Permit No. 1447A



Protecting Texas by
Reducing and
Preventing Pollution

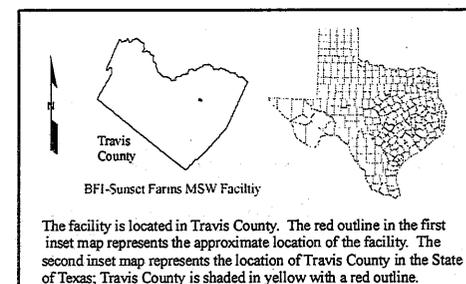
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

Map Data Sources and Disclaimer

Source: This map was requested by TCEQ's Office of Legal Services (OLS). The location of the facility was provided by OLS. The property boundaries depicted were manually digitized and approximated (survey data not available) using paper maps provided by OLS. Hearing Requestor addresses were provided by OLS and geocoded using GDT Streets 2006-2007 geodatabase technology. Unmatched addresses were manually plotted based on Google Maps and Map Quest Internet site locators. PO Boxes cannot be located and were not plotted.

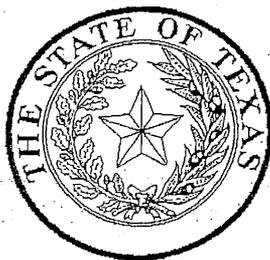
The counties are GDT 2000 Line Data (1:100,000). The imagery in this map are georeferenced aerial photographs called Digital Orthophoto Quarter Quadrangles (DOQQs) which were obtained in 2004 from the National Agricultural Imagery Program (NAIP), U.S. Department of Agriculture. This color-infrared (CIR) imagery has a one-meter pixel resolution. As requested by OLS for readability, the imagery's channels have been changed (2,3,3, RGB Stretch: std dev n=4) to replicate a false-color composite. The DOQQs used are Austin East, Manor, and Pflugerville East.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



ATTACHMENT C

Draft Permit



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT FACILITY
Issued under provisions of Texas
Health & Safety Code
Chapter 361

MSW Permit No.: 1447A

Permittee: BFI Waste Systems of North America, Inc.
4542 SE Loop 410
San Antonio, Texas 78222-3925

Property Owners: BFI Waste Systems of North America, Inc.
4542 SE Loop 410
San Antonio, Texas 78222-3925

Giles Holdings, L.P.
1223 Judson Road
Longview, Texas 75601-3922

Facility Name: BFI Sunset Farms Landfill

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.

APPROVED, ISSUED AND EFFECTIVE in accordance with Title 30 Texas Administrative Code Chapter 330, as in effect before March 27, 2006.

ISSUED DATE:

For the Commission

Table of Contents
BFI Sunset Farms Landfill
MSW Permit No. 1447A
Travis County

PART NO. 1

I.	Location and Size of Facility.....	3
II.	Incorporated Application Materials	3
III.	Facilities and Operations Authorized	4
IV.	Facility Design, Construction, and Operation.....	5
V.	Financial Assurance	7
VI.	Facility Closure	8
VII.	Site Completion and Closure	8
VIII.	Standard Permit Conditions	8
IX.	Incorporated Regulatory Requirements.....	11
X.	Special Provisions.....	11

PART NO. 2

ATTACHMENT A - Parts I through IV of the Permit Application Document.....	11
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PART NO. 3

ATTACHMENT B - Minor Amendments, Corrections, and Modifications that May Be Issued	11
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PART NO. 1

I. Location and Size of Facility

- A. The BFI Waste Systems of North America Sunset Farms Landfill is located approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290, in Travis County, Texas. The site is within the city limits and extra-territorial jurisdiction of the City of Austin. The address of the landfill entrance is 9912 Giles Road.
- B. The legal description is contained in Part I of the application, in Attachment A of this permit.
- C. Coordinates and Elevation of Site Permanent Benchmark:
- | | |
|------------|--|
| Latitude: | N 30° 20' 21" |
| Longitude: | W 97° 37' 01" |
| Elevation: | 613.40 feet above mean sea level (msl) |
- D. The total area within the permit boundary is approximately 349.4 acres, of which approximately 251.5 acres will be used for waste disposal. The final maximum elevation of the waste fill and final cover material will be 795 feet msl.

II. Incorporated Application Materials

This permit is based on and the permittee shall follow Parts I through IV of the permit application dated August 1, 2005, and the revisions dated May 8, 2006, August 22, 2006, November 10, 2006, January 18, 2007, February 12, 2007, and March 14, 2007, which are hereby approved subject to the terms of this permit and any other orders of the Texas Commission on Environmental Quality (TCEQ). These materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these application materials shall become conditions of this permit upon the date of approval by the Commission.

Part V of the permit application shall be submitted upon completion of construction of the facility. The permittee shall maintain Parts I through V of the application as described in Title 30 Texas Administrative Code (30 TAC), Chapter 330, Section (§) 330.51(a) at the facility and make them available for inspection by TCEQ personnel. [Chapter 330 rule citations in this document refer to the rules in effect at the time of the application, before the March 27, 2006; revisions.]

III. Facilities and Operations Authorized

A. Days and Hours of Operation

The facility is authorized to operate and accept waste 24 hours per day, seven days per week.

B. Wastes Authorized at This Facility

The permittee is authorized to dispose of municipal solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including household garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, construction-demolition waste, and yard waste. The facility may also accept, regulated asbestos-containing material from municipal sources, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content (30 TAC §330.136(b) and §330.137(b)), Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, and certain special wastes identified in Part IV in Attachment A of this permit. The acceptance of special wastes is contingent upon such waste being handled in accordance with 30 TAC §330.136, and in accordance with the listed and described procedures in Part IV in Attachment A of this permit, subject to the limitations and special provisions provided herein.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 TAC §330.5(e). Hazardous wastes (other than municipal hazardous waste from conditionally exempt small quantity generators), radioactive wastes, polychlorinated biphenyl (PCB) wastes, nonhazardous Class 1 industrial wastes (other than that considered Class 1 only because of asbestos content), or any other wastes not identified in Section III.B. of this permit shall not be accepted at this facility.

D. Waste Acceptance Rate

Authorized solid waste may be accepted for disposal at this site at the initial rate of approximately 3,150 tons-per-day and increasing over time to a maximum acceptance rate of approximately 5,000 tons-per-day. The actual yearly waste acceptance rate is a rolling quantity based on the sum of the previous four quarters of waste acceptance. Present and future waste acceptance rates are detailed in Part III, Appendix IIIA in Attachment A of this permit.

E. Volume Available for Waste Disposal

The total waste disposal capacity of the landfill is 38,333,735 cubic yards, based on the information contained in Appendix III-A of Part III, in Attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type I municipal solid waste landfill that utilizes a combination of area excavation fill and aerial fill of the municipal solid waste landfill, 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, wheel-wash facility, liquid waste stabilization basin, fuel storage tanks, citizen drop-off area, brush storage and grinding area, 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 the Texas Commission on Environmental Quality (TCEQ) permit amendment or modification rules, 30 TAC Chapters 305 and 330.

IV. 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, 330.111 through 330.139, 330.150 through 330.159, 330.200 through 330.206, 330.230 through 330.242, 330.250 through 330.256, 330.280 through 330.284, and 330.300 through 330.305; Chapter 37, Subchapter R; special provisions contained in this permit; and Parts I through IV of the application 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, spills, or precipitation;
 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 §26.121 of the Texas Water Code;
 2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements of §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
 3. The requirements under §404 of the Federal Clean Water Act, as amended; and
 4. Any requirement of an area wide or statewide water quality management plan that has been approved under §208 or §319 of the Federal Clean Water Act, 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), and Part III, Attachment 15 in Attachment A of 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 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 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 as described in Part I in Attachment A of this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV in Attachment A of this permit. All facility employees and other persons involved in facility operations shall obtain the appropriate level of operator certification as required by recent changes in the statute and applicable regulations.

- 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 safe aircraft operations will require prompt mitigation actions.

Y. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 330, Subchapter K and 30 TAC Chapter 37, Subchapter R.
- B. 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. The closure cost estimate of \$39,099,849 (2004 dollars) is based on estimates as described in Part III, Attachments 8 and 12, 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. 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 \$7,984,570 (2005 dollars) is based on estimates as described in Part III, Attachments 8 and 13, 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 2005 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. 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.

VI. Facility Closure

Closure of the facility shall commence:

- A. Upon completion of the disposal operations and the site is completely filled or rendered unusable in accordance with Part III, Attachment 7 in Attachment A of this permit;
- B. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director 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;
- D. For failure to secure and maintain an adequate bond or other financial assurance as required; or
- E. Upon the permittee's notification to the TCEQ that the landfill will cease to accept waste and no longer operate at any time prior to the site being completely filled to capacity.

VII. 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 §§330.253 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 found in Attachment A of this permit, for a period of 30 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.254(b).

VIII. 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. 1447A are hereby made a part of this permit as 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. 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 pre-construction conference shall be held pursuant to 30 TAC §330.64(c) before beginning any construction within the permit boundary to ensure that all aspects of this permit, construction activities, and inspections are met. Additional pre-construction 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 Travis 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. Daily cover of the waste fill areas shall be performed with clean soil that has not been in contact with waste. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior daily cover or which 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. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and speed bumps/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 Texas 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 exist between permit provisions, application materials (incorporated as Parts I through IV of Attachment A of this permit) and the rules under 30 TAC Chapter 330, then the permit provisions and the rules shall hold precedence over the application materials.

- 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.

IX. 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 prior to the beginning of any on-site improvements or construction approved by this permit.

X. Special Provisions

- A. The permittee shall comply with the conditions specified in a letter from the Capital Area Council of Governments (CAPCOG) to the TCEQ, dated August 23, 2006, and agreed to by the applicant in a letter to CAPCOG dated January 18, 2007, as described in Section I.B (Supplementary Technical Report) of Part I of the application and documented in Section II.K (Coordination Letters) of Part II of the application, in Attachment A of this permit.
- B. All waste receipt shall cease on or before November 1, 2015. After the last receipt of wastes, the permittee shall complete installation of the permitted final cover system in accordance with 30 TAC §330.253.
- C. Leachate and gas condensate shall not be recirculated.
- D. The permittee shall repair eroded cover within 5 days of detection unless the commission's regional office approves otherwise.

PART NO. 2

Attachment A

Parts I through IV of the permit application.

PART NO. 3

Attachment B

Minor Amendments, Corrections, and Modifications that may be issued for MSW Permit No. 1447A

The minor amendment, modification, or correction document prepared and executed with an approval date shall be attached to this attachment. There is no limit on the number of these documents that may be included in Attachment B of this permit.

ATTACHMENT D

Technical Summary and Executive Summary

TECHNICAL SUMMARY
of the
BFI Waste Systems of North America
Sunset Farms Landfill
MSW Permit Amendment
Application No. 1447A

Type I
Municipal Solid Waste Facility
Travis County, Texas

Applicant:
BFI Waste Systems of North America, Inc.

Prepared March 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 amendment application. Not all of the information contained in this summary has been independently verified.

Name of Applicant: BFI Waste Systems of North America, Inc.
4542 SE Loop 410
San Antonio, Texas 78222-3925
CN600343826

Giles Holdings, L.P.
1223 Judson Road
Longview, Texas 75601-3922
CN602633174

Name of Facility: BFI Sunset Farms Landfill
RN100542752

Contact Person: Mr. Brad Dugas
South Central Texas District Manager
BFI Waste Systems of North America, Inc.
4542 Southeast Loop 410
San Antonio, Texas 78222-3925
(210) 648-5222

Consulting Engineers: Mr. Ray L. Shull, P.E., President
Associated Consulting Engineers, Inc.
901 South MoPac Expressway, Building II, Suite 165
Austin, Texas 78746-5748
(512) 329-0006

Type of Facility: 349.4 acres Type I Municipal Solid Waste Landfill Facility

1. General

1.1. Purpose

This permit amendment allows the facility to expand vertically, increasing the height from the former maximum elevation of 720 feet above mean sea level (msl) to a new maximum elevation of 795 feet msl. The expansion increases the capacity of the facility by approximately 10,600,000 cubic yards. The permit amendment application was received on January 20, 2006, and declared administratively complete January 31, 2006. The application was reviewed under the rules in effect before the March 27, 2006, revisions to Title 30 Texas Administrative Code (30 TAC), Chapter 330 (Municipal Solid Waste).

1.2. Wastes to be Accepted

Solid waste to be disposed will consist of municipal solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including household garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals,

construction-demolition waste, and yard waste. The facility may also accept, regulated asbestos-containing material from municipal sources, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content (30 TAC §330.136(b) and §330.137(b)), Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, certain special wastes identified in 30 TAC §330.136(b), and other waste as approved by the Executive Director of the TCEQ. The landfill will not accept hazardous wastes (other than municipal hazardous waste from conditionally exempt small quantity generators), radioactive wastes, polychlorinated biphenyl (PCB) wastes, nonhazardous Class 1 industrial wastes (other than that considered Class 1 only because of asbestos content), or any other wastes prohibited by 30 TAC §330.5.

1.3. Waste Acceptance Rate

Authorized wastes will be accepted at an initial rate of approximately 140,000 cubic yards per month, which results in an estimated life of 10 years as of January 2005, according to data in the application.

2. Location and Size

2.1. Location

The facility is located at 9912 Giles Road, approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290 in Travis County, Texas. Refer to Attachment 1 (General Location Map) to this Technical Summary.

2.2. Elevation and Coordinates of Permanent Benchmark

Latitude: N 30° 20' 21"
Longitude: W 97° 37' 01"
Elevation: 613.40 feet above mean sea level (msl)

2.3. Size

The total area within the permit boundary is approximately 349.4 acres, of which approximately 251.5 acres will be used for waste disposal. The land not used for waste disposal will be landscaped and used for buffer zones, perimeter access roads, drainage facilities, and other uses excluding waste processing and disposal. The final maximum elevation of the waste fill and final cover material will be 795 feet msl. This amendment increases the capacity of the facility by approximately 10,600,000 cubic yards, from the currently permitted capacity of 27,703,735 cubic yards to 38,303,735 cubic yards.

3. Facility Design, Construction, and Operations

3.1. Facilities Authorized

The permittee is authorized to operate the facility subject to the limitations contained in the permit. All waste disposal operations are 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 I municipal solid waste landfill with a disposal footprint of approximately 251.5 acres. The landfill will have a below grade excavation and fill of approximately 40 feet, down to a minimum elevation 581 feet msl, and above grade aerial fill of approximately 182 feet, up to a maximum elevation 795 feet msl. The waste disposal method will be continuous area filling.
- 3.1.2. The bottom and sides of existing landfill cells that were constructed before October 9, 1993 (pre-Subtitle D areas), are lined by *in situ* materials in some areas and a 3-foot-thick compacted soil liner in other areas. The bottom and sides of existing landfill cells constructed on or after October 9, 1993 (Subtitle D areas), and future cells are or will be lined with a composite liner system consisting of (from bottom to top): a 24-inch-thick compacted soil layer with a hydraulic conductivity of 1×10^{-7} cm/sec or less; a 60-mil-thick high density polyethylene (HDPE) geomembrane; a leachate collection layer consisting of granular or geosynthetic drainage layers and a system of perforated collection pipes encased in gravel for leachate collection and removal; and a 24-inch-thick protective cover soil layer.
- 3.1.3. Fill areas will be covered by a composite final cover system consisting of (from bottom to top): an 18-inch-thick compacted soil layer with a hydraulic conductivity of 1×10^{-5} cm/sec or less, or alternatively, a geosynthetic clay liner with a hydraulic conductivity of 5×10^{-9} cm/sec or less, in place of the 18 inches of compacted soil; a 40-mil-thick linear low density polyethylene (LLDPE) geomembrane; a geocomposite lateral drainage layer; and an erosion layer consisting of 18 inches of protective cover soil, of which the topmost 6 inches will be capable of supporting native vegetation.
- 3.1.4. Structures for surface drainage and storm water run-on/runoff control include a perimeter drainage system to convey runoff around the site, sedimentation ponds and basins, and related appurtenances.
- 3.1.5. The facility will have 32 groundwater monitoring wells, 21 gas monitoring probes, a gas collection and control system, gas flare, and gas-to-energy plant.
- 3.1.6. In addition to the solid waste disposal area, the facility will have a gatehouse and other buildings, scales, all-weather access roads, a wheel-wash facility, a liquid waste stabilization basin, fuel storage tanks, a citizen drop-off area, and a brush storage and grinding area.

- 3.2. The facility shall be built, operated, and maintained in accordance with the conditions of the permit, the permit amendment application Parts I through IV, and Commission rules. The facility shall be managed in a manner to protect human health and the environment.

4. Land Use

- 4.1. The site is located at 9912 Giles Road, approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290 in Austin, Travis County, Texas.
- 4.2. The surrounding land use within one mile of the facility includes industrial, residential, commercial, recreational, and institutional uses (total approximately 35 percent at the time the application was prepared), as well as undeveloped open land (approximately 65 percent).
- 4.3. Structures and other developed features within one mile of the boundary of the site include residences, a school, a day care facility, a historic site, a golf course, other recreational facilities, ponds, industrial and business buildings, and other landfills.

5. Transportation and Access

- 5.1. The primary access routes to the site are U.S. Highway 290, Johnny Morris Road, and Giles Road; Blue Goose Road and Cameron Road will be secondary access routes. Public access to the facility will be through the entrance on Giles Road.
- 5.2. At the time the application was prepared, the facility generated approximately 1,205 vehicle trips per day (inbound and outbound), which is expected to increase to 1,344 vehicle trips per day in year 2015. A traffic analysis included in the application concluded that primary access roadways within one mile of the site would operate at acceptable levels of service.
- 5.3. The nearest public use airport is the Austin-Bergstrom International Airport located approximately 8.5 miles south-southwest of the facility.

6. Surface Water Protection

6.1. Floodplain

Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) show that most of the site is outside of any 100-year floodplain. A small part of the northeast portion of the site is within the 100-year floodplain of a tributary to Lake Walter E. Long; no portion of the waste fill area will be located within that 100-year floodplain.

6.2. Storm water

Drainage patterns and runoff volumes will not be significantly altered. Landfill contours and the storm water detention system are designed to limit peak flows to not exceed existing conditions. Runoff from landfill cover will be diverted by berms and channeled in riprap-

lined downchutes, and directed to detention and sedimentation basins around the perimeter of the facility. The facility also has a Storm Water Pollution Prevention Plan. Surface water runoff from the site drains into a tributary to Walnut Creek on the west, and into a tributary to Lake Walter E. Long on the east. Both of these features drain to the Colorado River.

6.3. Contaminated Water

Storm water that contacts solid waste will be considered contaminated water. Contaminated storm water at the working face will be contained by use of constructed storm water berms down slope of the working face and removed, or allowed to flow into the leachate collection system. Contaminated water that is removed will be transferred to portable tanks or tanker trucks for disposal at an approved disposal facility, or discharged to a publicly owned treatment works (POTW).

7. Groundwater Protection.

7.1. Groundwater Protection

To reduce the potential for impacts to groundwater at the site resulting from waste disposal operations, fill areas will be lined and covered as described in Sections 3.1.2 and 3.1.3 of this Technical Summary.

7.2. Groundwater Monitoring System

A groundwater monitoring system, consisting of 32 monitor wells around the perimeter of the facility, will provide for early detection of potential releases from the facility. Wells in the groundwater monitoring system will be sampled, analyzed, and monitored in accordance with the procedures in the Groundwater Sampling and Analysis Plan provided in Attachment 11 of the permit amendment application.

8. Control of Methane

8.1. The design and construction of the below grade liners, described in Section 3.1.2 of this Technical Summary, inhibits migration of landfill gas.

8.2. Landfill gas migration will be monitored around the perimeter of the facility utilizing 21 permanent landfill gas monitoring probes. Gas monitoring will be conducted quarterly to detect migration of methane gas at the facility property boundary and in enclosed structures within the facility property boundary. An active landfill gas collection system and flare are used to collect and destroy landfill gas in accordance with New Source Performance Standards (NSPS) and Title V General Operating Permit requirements. Landfill gas is also recovered for beneficial use in an electrical generating facility at the site.

9. Site Development and Operation

The Site Development Plan (SDP) (Part III of the application), and the Site Operating Plan (SOP), (Part IV of the application), are intended to provide guidance from the design engineer to the facility

management and operating personnel for developing and operating the facility, and for maintaining compliance with design requirements and rules. The SDP and SOP were prepared in accordance with rules in 30 TAC Chapter 330, that were in effect at the time the application was declared administratively complete, and will become part of the facility permit if the proposed landfill major amendment is approved by the TCEQ.

10. Protection of Endangered Species

A threatened and endangered species habitat review was performed by Horizon Environmental Services, Inc. The review did not identify suitable habitat on the site for any threatened or endangered species. A field survey identified minimal habitat for the Texas horned lizard, but no individuals or likely food sources.

11. Protection of Wetlands

Horizon Environmental Services, Inc. performed a field investigation and determined there are three U.S. Army Corps of Engineers jurisdictional areas: (1) a pond in the northeast corner of the site; (2) an unnamed tributary to Lake Walter E. Long, exiting the northeast corner of the site; and (3) a wetland area in the northeast part of the site. The application states that the wetland area will not be disturbed. A wetlands certification is provided Part II, Section J of the application.

12. Financial Assurance

Authorization to operate this facility is contingent upon the maintenance of financial assurance in accordance with 30 TAC Chapter 37 (Financial Assurance), Chapter 330, and the provisions contained in the permit.

13. Attachments

Attachments from the permit amendment application which provide illustrations of the site location, nearby land use, and site development include the following:

<u>Attachment</u>	<u>Description</u>	<u>Location in the Application/Drawing Number</u>
1	General Location Map	Part I, Figure I.D-1
2	General Site Map	Part I, Figure I.C-1
3	Land Use Map	Part II, Figure II.C
4	Site Layout Plan	Part III, Attachment 1 (2 sheets)
5	Overall Excavation Plan	Part III, Attachment 1.1
6	Sequence	Part III, Attachment 1.2 (3 sheets)
7	Fill Cross Sections	Part III, Attachment 2 (4 sheets)
8	Final Contour Map	Part III, Attachment 7

14. Additional Information

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

Mr. Arten Avakian, P.G.
MSW Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
(512) 239-4419

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

- 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" 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. The notice also allows the public to request a public meeting for the proposed facility.
- 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 public hearing.
- 15.5. After the 30-day period to request a 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 public hearing.
- 15.6. A public 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.

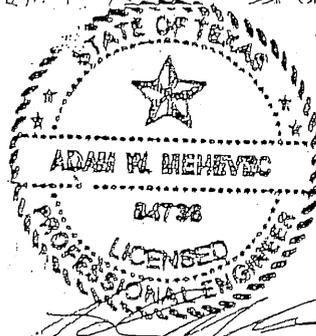
- 15.7. After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 20 days after the party or the party's attorney of record is notified of the decision. The matter 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.

For information regarding public participation in the permitting process, contact the TCEQ Office of the Public Interest Counsel:

Office of Public Interest Counsel, MC 103
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-6363

For information regarding public hearing procedures for municipal solid waste permits, contact the State Office of Administrative Hearings:

State Office of Administrative Hearings
Natural Resource Division
300 W. 15th Street, Room 504
Austin, TX 78701
(512) 475-3445

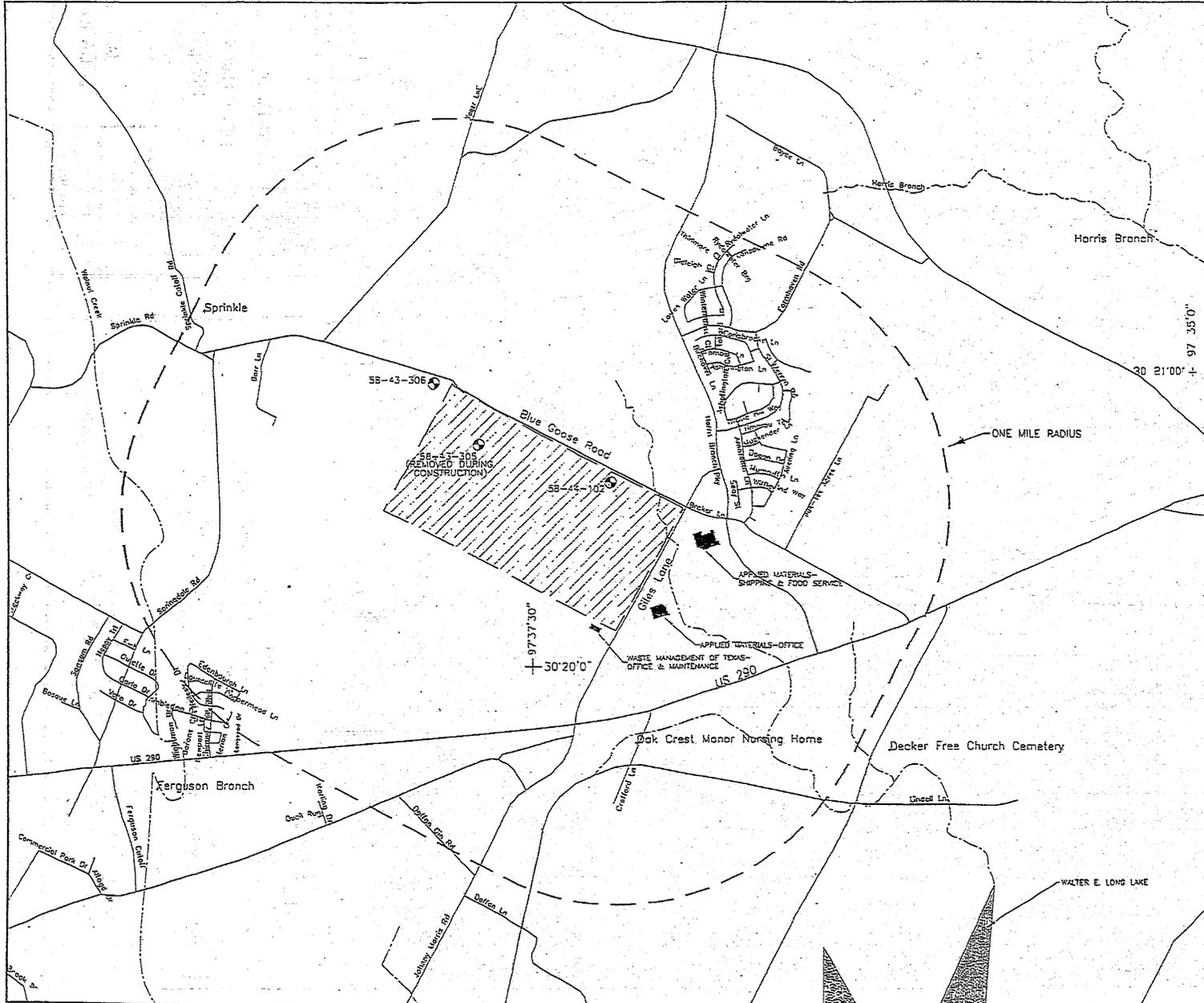


BASEMAP SOURCE:
 GENERAL HIGHWAY MAP FOR
 TRAVIS COUNTY, TEXAS
 TEXAS DEPARTMENT OF TRANSPORTATION
 REVISED MARCH 1, 2001



 ASSOCIATED CONSULTING ENGINEERS, INC.	
 BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A	
ACE REFERENCE NO. 070-03	GENERAL LOCATION MAP
DATE: 12/6/01	
FILE: GENLOCMAP.dwg	
FIGURE I.D-1	

11-15-04



LEGEND

- RAILROADS
- CREEKS/STREAMS
- RIVERS/LAKES/PONDS
- RECREATIONAL AREAS
- ROADWAYS
- PERMIT BOUNDARY
- ONE MILE RADIUS
- WATER WELLS
- BUILDINGS WITHIN 500 FT

NOTES:
 1) WATER WELL INFORMATION OBTAINED FROM BANKS INFORMATION SOLUTIONS, INC.
 2) SEE FIGURE I.C-2 FOR WIND ROSE INFORMATION.

BASemap SOURCE:
 FEATURES AND NAMES TAKEN FROM USGS 7.5' MANOR QUADRANGLE
 TRANSPORTATION AND HYDROGRAPHY SOURCE DATA FROM US CENSUS BUREAU TIGER 1995 FILES



THIS DOCUMENT IS ISSUED FOR PERMIT REVIEW PURPOSES ONLY. IT IS NOT INTENDED FOR CONSTRUCTION OR BIDDING PURPOSES.



ACE Associated Consulting Engineers, Inc.
 901 S. Mopac Expy. Bldg II #165
 Austin, Texas 78746

BFI BFI SUNSET FARMS LANDFILL
 PERMIT AMENDMENT
 MSW 1447-A

ACE REFERENCE NO. 079-03	GENERAL SITE MAP	FIGURE I.C-1
DATE: 5/17/2005		
FILE: LC SITEMAP.dwg		



planning + landscape architecture
 712 Congress Avenue, Suite 300
 Austin, TX 78701
 (512) 480-0032 fax (512) 480-0617
 RICHARDSON VERDOORN

FIGURE II.C LAND USE MAP

Legend

- LAND USE**
- Open (includes agriculture, rights of way, & vacant land)
 - Industrial
 - Residential
 - Commercial
 - Recreational
 - Water
 - Institutional
- *DC Day Care
 - *H Historic Site
 - *LF Landfill Site (past or present)
 - *SCH School
 - * Water Well with State ID

For Zoning, reference Figure II.D-1
 For Easements, reference Figure I.1

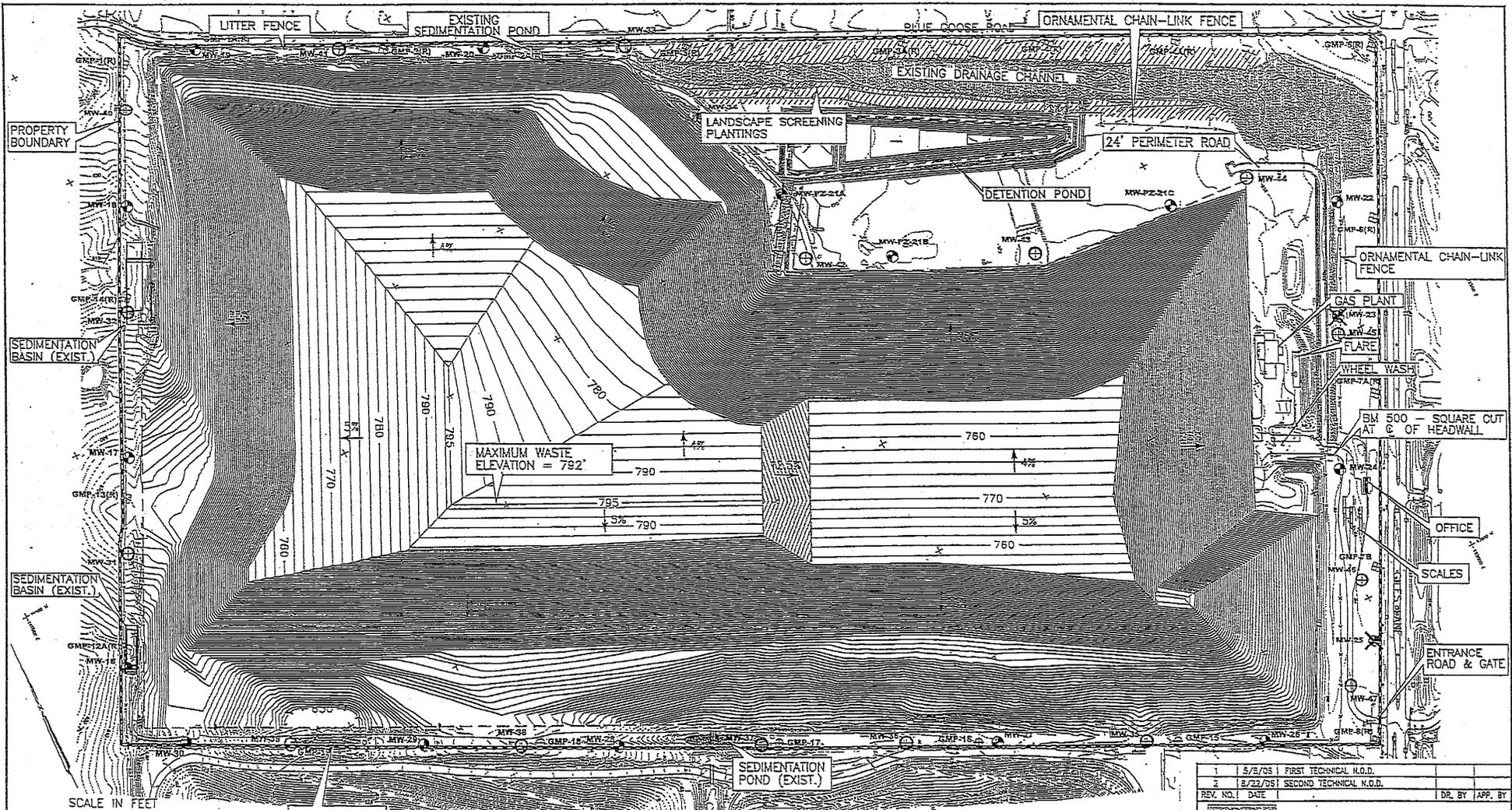
LAND USE REPORT

BFI SUNSET FARMS LANDFILL
 PERMIT AMENDMENT
 MSW 1447-A



SCALE
 0 400 800 1600

DATA SOURCES:
 Field Inventory, May 27, 2004
 Associated Consulting Engineers, Inc.
 AERIAL PHOTOGRAPHY:
 May 7, 2004



- NOTES:**
1. REFER TO ATTACHMENT 5 FOR FLOW RATES FOR RUNOFF ONTO AND OFF THE SITE.
 2. THE GAS WELLS IN THE FINAL COVER ARE PRESENTED ON DRAWING ATTACHMENT 14.
 3. A CHAIN-LINK PERIMETER FENCE IS EXISTING AND WILL BE MAINTAINED ALONG THE PERMIT BOUNDARY.
 4. THE FINAL COVER WILL HAVE INTERCEPTOR BERMS AND FLUMES. REFER TO ATTACHMENT 6 FOR LOCATIONS AND DETAILS OF THE BERMS AND FLUMES.
 5. ALL CONTOURS AND ELEVATIONS SHOWN ARE IN FEET ABOVE MEAN SEA LEVEL.

- SEDIMENTATION POND (EXIST.)**
- OPERATING MUNICIPAL LANDFILL (WASTE MANAGEMENT)**
6. SEE ATTACHMENT 15 FOR LOCATION OF LEACHATE COLLECTION SYSTEM SUMP RISERS AND CLEANOUTS.
 7. THE ENTRANCE ROAD AND PERIMETER ROAD FOR THE SITE WILL CONSIST OF CRUSHED LIMESTONE BASE MATERIAL WITH AN ASPHALT SURFACE. ALL INTERIOR ROADS WILL BE CRUSHED LIMESTONE BASE.
 8. 100-YR FLOODPLAIN IS BASED ON CALCULATIONS SUBMITTED WITH CLOMR APPLICATION APPROVED BY FEMA FEB. 5, 2002.
 9. BASEMAP CREATED FROM TOPOGRAPHIC SURVEY DATED MARCH 28, 2005 BY BASE MAPPING Co. LTD. ALL ELEVATIONS ARE FEET MSL.

- LEGEND**
- GMP-13 PERMITTED GAS PROBE
 - GMP-17 PROPOSED GAS PROBE
 - MW-25 EXISTING GROUND WATER MONITORING WELL
 - MW-22 PROPOSED GROUND WATER MONITORING WELL
 - MW-23 EXISTING GROUND WATER MONITORING WELL TO BE PLUGGED AND ABANDONED
 - 4% PROPOSED GRADE
 - LANDSCAPE SCREENING PLANTINGS
 - 100 YEAR FLOODPLAIN

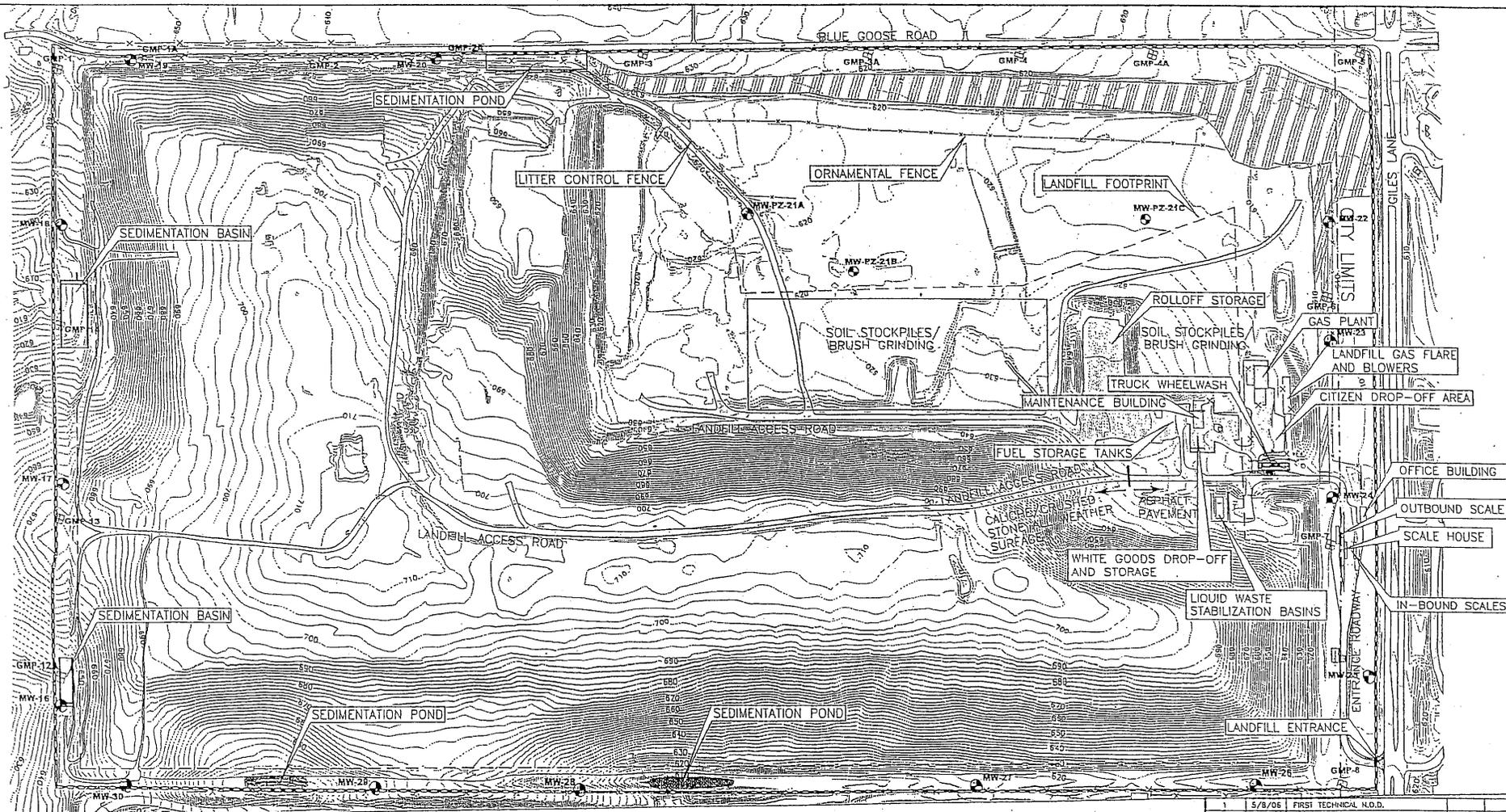
BENCHMARK

MARK	NORTHING	EASTING	ELEVATION
BM 500	152642.90	513.40	

ADAM W. MEHEVEC
84736
PROFESSIONAL ENGINEER
REVISED 8/22/2005
PERMIT DRAWINGS

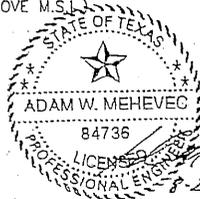
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2	8/22/05	SECOND TECHNICAL N.O.D.		
REV. NO.	DATE		DR. BY	APP. BY
ACE ASSOCIATED CONSULTING ENGINEERS, INC.				
BFI BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A				
ACE REFERENCE NO. 070-03	SITE LAYOUT PLAN		ATTACHMENT 1	
DATE: 5/22/2005			SHEET 1 OF 2	
FILE: ATTACHL1.dwg				

8-22-06



LEGEND

- EXISTING CONTOURS (FT. ABOVE M.S.L.)
- - - LANDFILL FOOTPRINT
- PERMIT BOUNDARY
- MW-28 MONITOR WELL
- GMP-13 PERMITTED GAS PROBE
- ▨ 100-yr FLOODPLAIN



NOTES:

1. TOPOGRAPHIC SURVEY MAPPED BY BASE MAPPING COMPANY, LTD., BASED ON AERIAL PHOTOGRAPHY DATED 03/28/05.
2. THE LANDFILL OPERATES UNDER TEXAS COMMISSION ON ENVIRONMENTAL QUALITY PERMIT MSW NO. 1447.
3. ALL FACILITIES SHOWN ARE CURRENTLY PERMITTED UNDER MSW 1447.



REVISED 8/22/2006
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1	5/8/06	FIRST TECHNICAL N.O.D.	
2	8/22/06	SECOND TECHNICAL N.O.D.	
REV. NO.	DATE		DR. BY / APP. BY

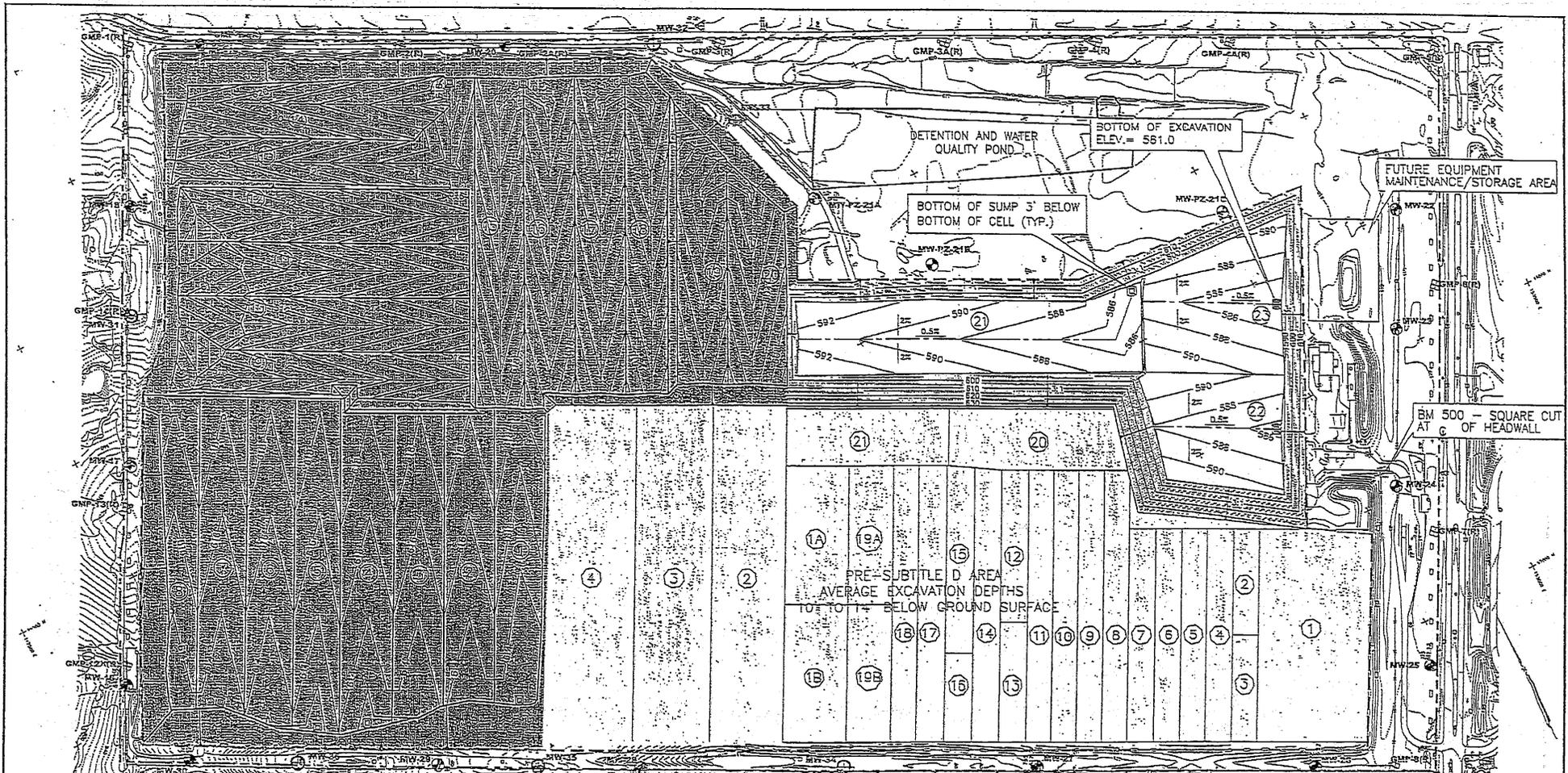


ASSOCIATED CONSULTING ENGINEERS, INC.



BFI SUNSET FARMS LANDFILL
PERMIT AMENDMENT
MSW 1447-A

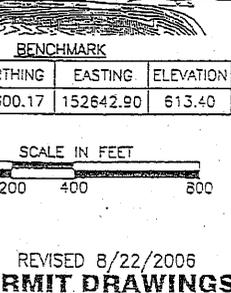
ACE REFERENCE NO. 070-03	SITE LAYOUT PLAN	ATTACHMENT 1
DATE: 8/22/2006		SHEET 2 OF 2
FILE: ATTACH_1_SHEET2.dwg		



- NOTES:**
1. WET WEATHER ACCESS WILL BE MAINTAINED TO THE ACTIVE DISPOSAL AREA THROUGH THE USE OF ALL-WEATHER ROADS.
 2. ALL CELLS WHICH HAVE NOT YET RECEIVED WASTE MAY BE USED FOR MULCHING, GRINDING, RECYCLING AND SALVAGING OPERATIONS AND FOR THE TEMPORARY STOCKPILING OF EXCAVATED SOILS OR OTHER MATERIALS. AREAS OUTSIDE THE LANDFILL FOOTPRINT, EXCEPT 100-YEAR FLOODPLAIN AND AREAS AT LEAST 50' FROM PERMIT BOUNDARY, MAY ALSO BE USED FOR THESE OPERATIONS.
 3. WASTE WILL NOT BE SEGREGATED WITHIN THE LANDFILL. ALL WASTES LISTED TO BE ACCEPTED IN THE SITE DEVELOPMENT PLAN MAY BE PLACED IN ANY PORTION OF THE FILL.
 4. A LANDFILL GRID SYSTEM WILL BE MAINTAINED IN ACCORDANCE WITH 30TAC 330.55(3)(10)(F).
 5. EXCAVATION GRADIES ARE CURRENTLY PERMITTED. NO CHANGES IN EXCAVATION GRADIES ARE PROPOSED FOR THIS AMENDMENT.
 6. EXCAVATION CONTOURS REPRESENT THE TOP OF SUBGRADE PRIOR TO LINER CONSTRUCTION.
 7. ALL CONTOURS SHOWN ARE IN FEET ABOVE MEAN SEA LEVEL.
 8. FILLING SEQUENCE
 9. FILL CURRENT CELL AT TIME OF APPROVAL TO MAXIMUM ALLOWABLE HEIGHT.
 10. WORK COUNTER-CLOCKWISE AROUND THE LANDFILL, BEGINNING WITH CURRENT CELL PLACING ADDITIONAL ABOVE GRADE WASTE ON PREVIOUSLY CONSTRUCTED CELLS.
 11. BEGIN SEQUENTIAL CONSTRUCTION AND FILLING OF UNDEVELOPED CELLS.
 12. BASEMAP CREATED FROM TOPOGRAPHIC SURVEY DATED MARCH 28, 2005 BY BASE MAPPING COMPANY, LTD. ALL ELEVATIONS ARE FEET MSL.
 13. COORDINATES ARE IN FEET AND ARE NAD83 TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE.
 14. PRE-SUBTITLE D CELL BOUNDARIES TAKEN FROM APPROVED SLERS FOR EACH CELL. EXCAVATION GRADIES ARE NOT AVAILABLE FOR ALL AREAS. IN GENERAL CELLS WERE EXCAVATED 10' TO 14' BELOW THE EXISTING GROUND SURFACE.

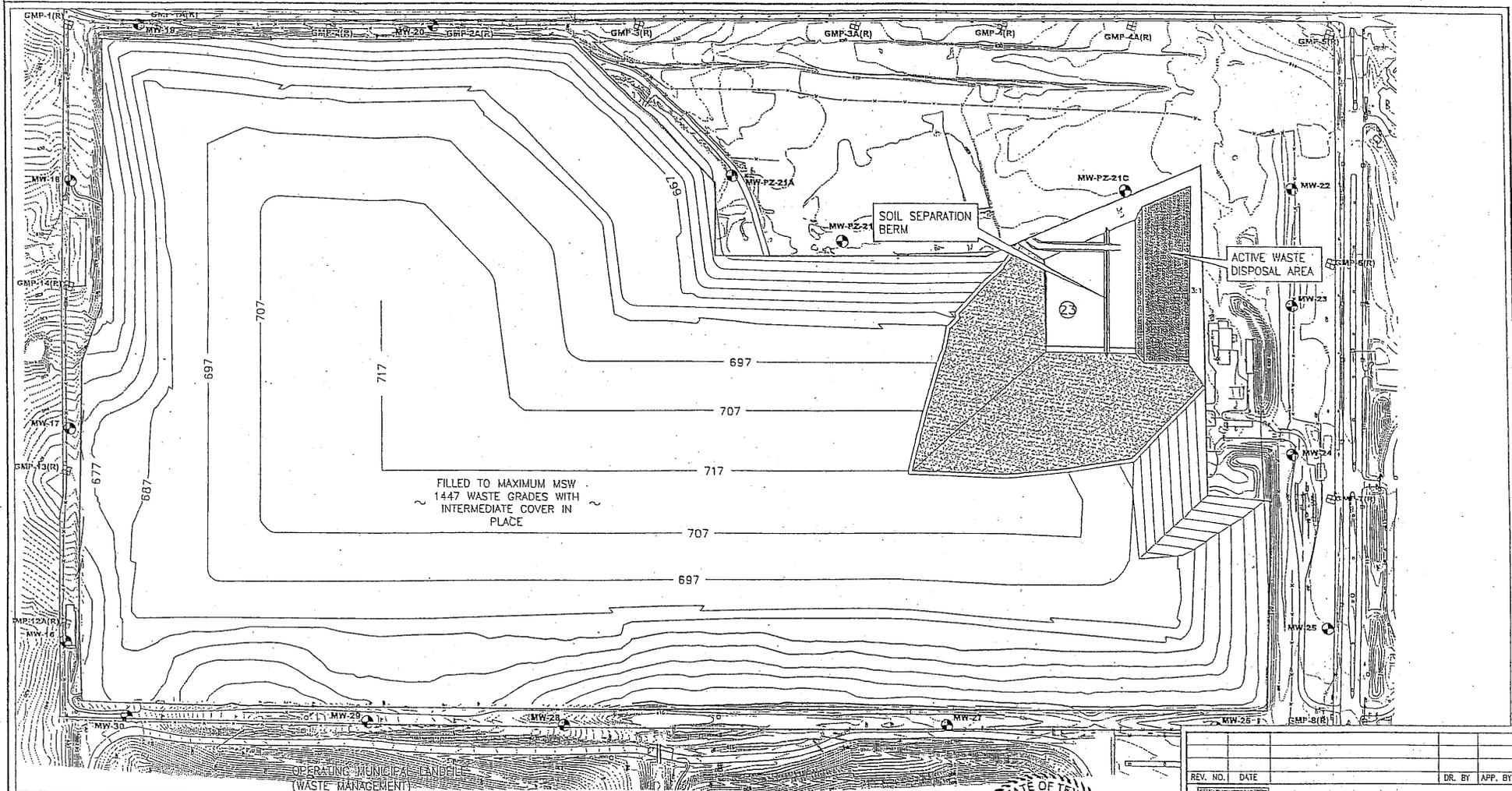
- LEGEND**
- PREVIOUSLY CONSTRUCTED SUBGRADE EXCAVATION AND LINERS
 - PROPERTY BOUNDARY
 - EXISTING LANDFILL FOOTPRINT
 - EXCAVATION GRADE
 - CELL NUMBER
 - PERMITTED GAS PROBE
 - PROPOSED GAS PROBE
 - EXISTING GROUND WATER MONITORING WELL
 - PROPOSED GROUND WATER MONITORING WELL
 - EXISTING GROUND WATER MONITORING WELL TO BE PLUGGED AND ABANDONED

BENCHMARK			
MAR	NORTHING	EASTING	ELEVATION
500	17600.17	152642.90	613.40



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1	5/8/05	FIRST TECHNICAL N.O.D.		
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 BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A				
ACE REFERENCE NO.	8/22/06	OVERALL	ATTACHMENT	
DATE	8/22/2006	EXCAVATION PLAN	1.1	
FILE	ATTACH_1.1.dwg			



NOTES

- BASEMAP CREATED FROM TOPOGRAPHIC SURVEY DATED MARCH 28, 2005 BY BASE-MAPPING COMPANY, LTD. ALL ELEVATIONS ARE FEET MSL.
- COORDINATES ARE IN FEET AND ARE NAD83 TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE.
- SEQUENCE 1 ANTICIPATES THAT THE ACTIVE DISPOSAL WILL BE OCCURRING IN CELL 23 AT THE TIME THE AMENDMENT APPLICATION IS APPROVED.
- THIS FIGURE IS A DEVELOPMENT SEQUENCE DRAWING AND REPRESENTS THE ANTICIPATED STATE OF THE LANDFILL AT THE TIME THE AMENDMENT APPLICATION IS APPROVED. IT IS THE INITIAL SEQUENCE DRAWING FOR THE 1447-A FILL. THE CONTOURS REPRESENT THE ELEVATIONS THAT THE CELLS WILL BE FILLED TO AT THE TIME THE AMENDMENT IS ANTICIPATED TO BE APPROVED.

BENCHMARKS

MARK	NORTHING	EASTING	ELEVATION
500	97600.17	152642.90	613.40

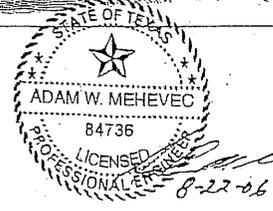
LEGEND

-  WASTE FACE WITH INTERMEDIATE COVER
-  ACTIVE WASTE DISPOSAL AREA

FILL SEQUENCE NOTES

- PRIOR TO PLACING WASTE ABOVE THE MSW 1447 PERMITTED GRADES, THE FOLLOWING ACTIVITIES WILL OCCUR:
- INSTALL NEW GROUNDWATER MONITOR WELLS SHOWN IN 1447-A.
 - INSTALL PROPOSED GAS MONITORING PROBES SHOWN IN 1447-A.

SCALE IN FEET

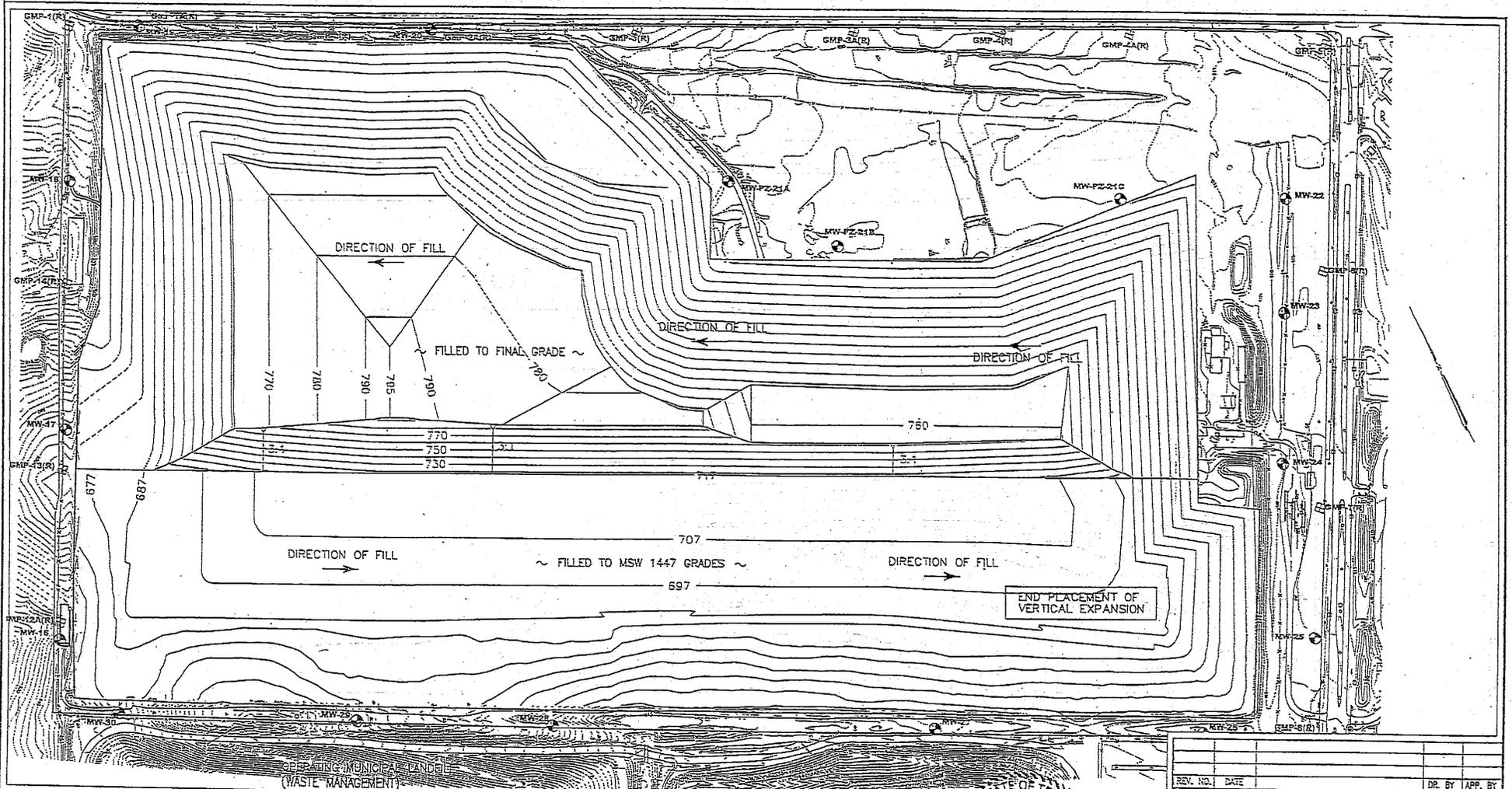


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PERMIT DRAWINGS

REV. NO.	DATE	DR. BY	APP. BY

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 BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A

ACE REFERENCE NO. 070-03	SEQUENCE 1 (AMENDMENT APPROVED)	ATTACHMENT 1.2
DATE: 8/22/06		SHEET 1 OF 3
FILE: SEQUENCE_1.dwg		

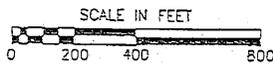


NOTES

1. BASEMAP CREATED FROM TOPOGRAPHIC SURVEY DATED MARCH 28, 2005 BY BASE MAPPING COMPANY, LTD. ALL ELEVATIONS ARE FEET MSL.
2. COORDINATES ARE IN FEET AND ARE NAD83 TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE.

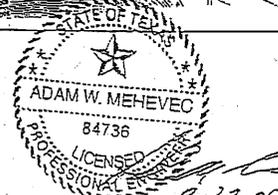
FILL SEQUENCE NOTES

- PRIOR TO PLACING WASTE ABOVE THE MSW 1447 PERMITTED GRADES, THE FOLLOWING ACTIVITIES WILL OCCUR:
1. INSTALL NEW GROUNDWATER MONITOR WELLS SHOWN IN 1447-A.
 2. INSTALL PROPOSED GAS MONITORING PROBES SHOWN IN 1447-A.
 3. PLACEMENT OF ADDITIONAL FILL AUTHORIZED UNDER 1447-A WILL COMMENCE NEAR THE NORTHEAST CORNER OF THE LANDFILL AND CONTINUE COUNTER-CLOCKWISE AROUND THE LANDFILL AS SHOWN.



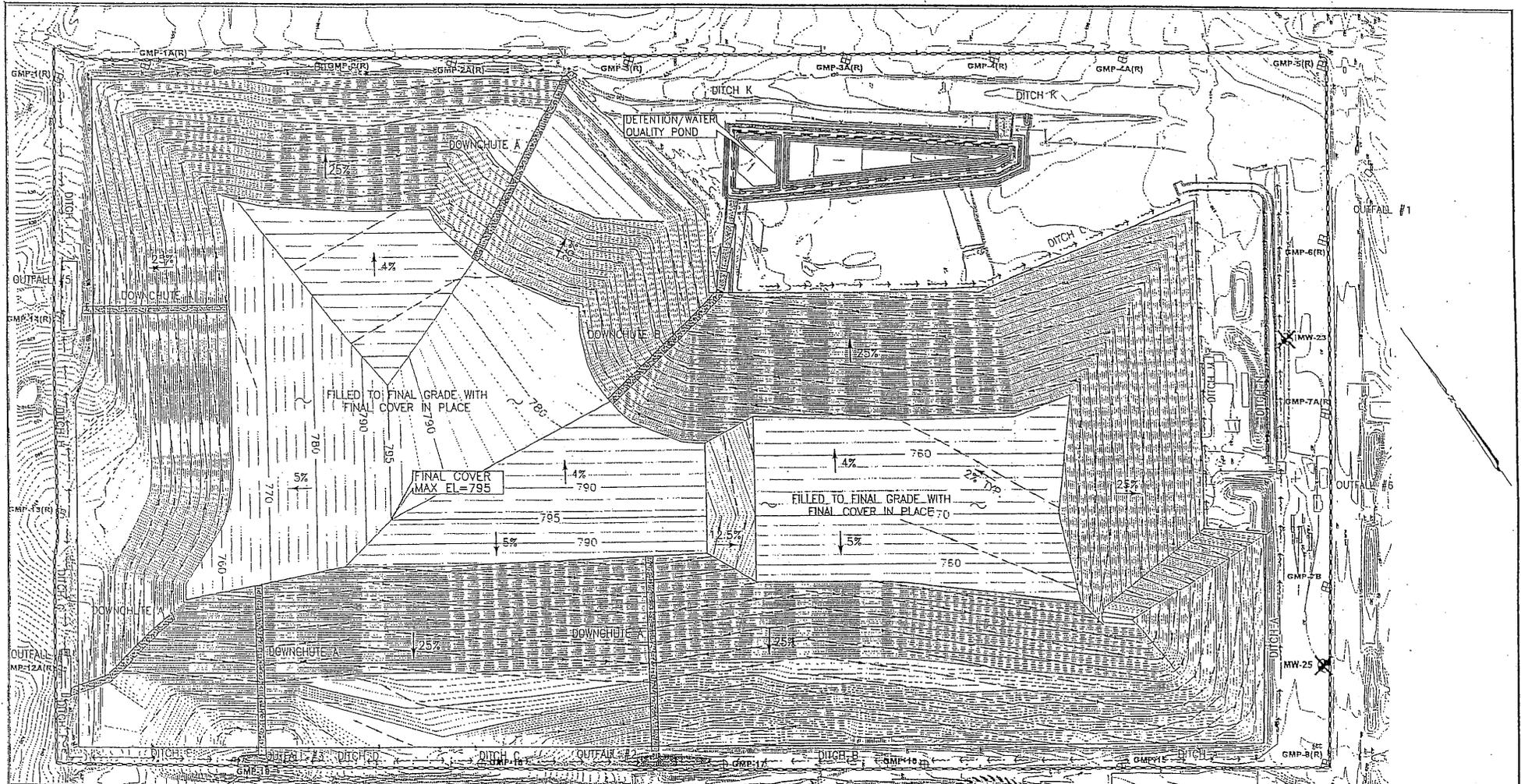
BENCHMARKS

MARK	NORTHING	EASTING	ELEVATION
500	97600.17	152542.90	613.40



REVISED 8/22/2006
PERMIT DRAWINGS

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BFI		BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A	
ACE REFERENCE NO. 070-03	SEQUENCE 2	ATTACHMENT 1.2	
DATE: 05/22/06	(PROGRESSION OF VERTICAL EXPANSION)	SHEET 2 OF 3	
FILE: SEQUENCE_2.dwg			



NOTES

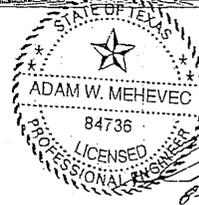
1. BASEMAP CREATED FROM TOPOGRAPHIC SURVEY DATED MARCH 28, 2005 BY BASE MAPPING COMPANY, LTD. ALL ELEVATIONS ARE FEET MSL.
2. COORDINATES ARE IN FEET AND ARE NAD83 TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE.

FILL SEQUENCE NOTES

- PRIOR TO PLACING WASTE ABOVE THE MSW 1447 PERMITTED GRADES, THE FOLLOWING ACTIVITIES WILL OCCUR:
1. INSTALL NEW GROUNDWATER MONITOR WELLS SHOWN IN 1447-A.
 2. INSTALL PROPOSED GAS MONITORING PROBES SHOWN IN 1447-A.
 3. PLACEMENT OF ADDITIONAL FILL AUTHORIZED UNDER 1447-A WILL COMMENCE NEAR THE NORTHEAST CORNER OF THE LANDFILL AND CONTINUE COUNTER-CLOCKWISE AROUND THE LANDFILL AS SHOWN.

LEGEND

- PERMIT BOUNDARY
- DIVERSION BERM
- PERIMETER DRAINAGE SWALE
- 100-yr FLOODPLAIN



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PERMIT DRAWINGS



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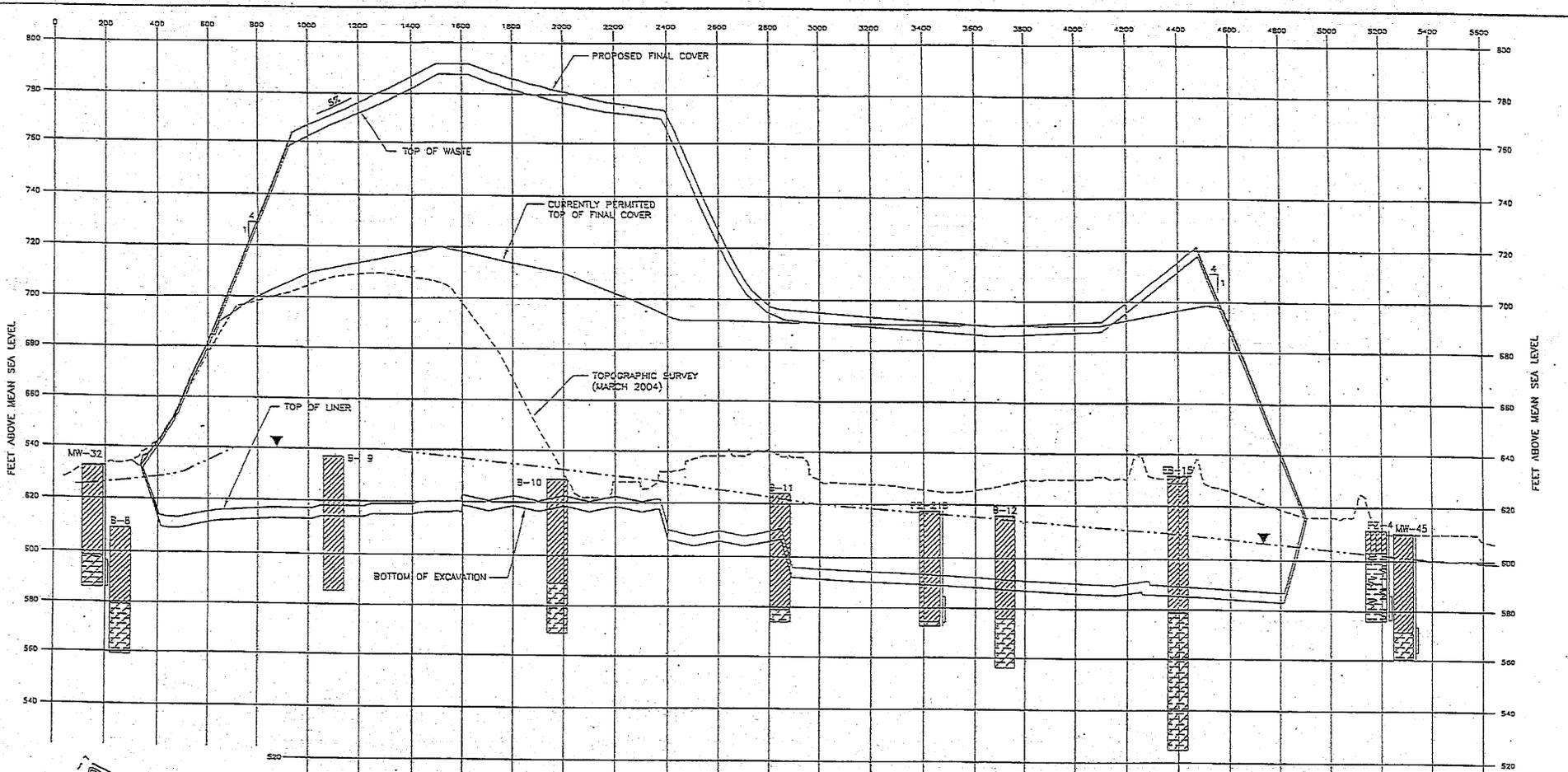


BFI SUNSET FARMS LANDFILL
 PERMIT AMENDMENT
 MSW 1447-A

ACE REFERENCE NO. 070-03
 DATE: 08/22/05
 FILE: Sequence_3.dwg

SEQUENCE 3
 (COMPLETION OF
 VERTICAL EXPANSION)

ATTACHMENT 1.2
 SHEET 3 OF 3

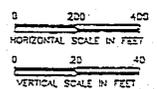


CROSS SECTION A-A'

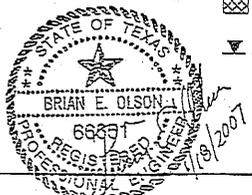
- NOTES:**
1. ALL EXCAVATION GRADES ARE CURRENTLY PERMITTED UNDER MSW 1447. NO CHANGES IN EXCAVATION DEPTHS ARE PROPOSED AS PART OF THIS AMENDMENT.
 2. EXCAVATION GRADES FOR PRE-SUBTILE D CELLS ARE UNKNOWN.
 3. SEE ATTACHMENT 12 FOR LINER AND COVER COMPONENTS.
 4. SEE ATTACHMENT 4, APPENDIX 4B FOR SOIL BORING INFORMATION AND APPENDIX 4C FOR GEOLOGIC CROSS-SECTIONS.
 5. GROUNDWATER LEVELS ARE BASED ON THE STABILIZED WATER LEVELS AS OBSERVED IN THE WEATHERED TAYLOR MARL IN SITE WELLS FROM DECEMBER 1999.
 6. SEE ATTACHMENT 14 FOR LOCATIONS OF GAS WELLS.
 7. THERE ARE NO PERIMETER OR TOE BERMS UTILIZED AT THIS SITE.

LEGEND

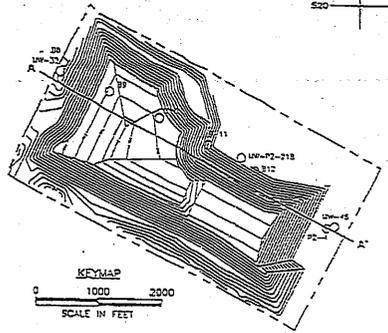
	Clay (CL)		Clayey Shale		Shaly Clay
	Silty Clay		Shale		Weathered Shale
	Fill				



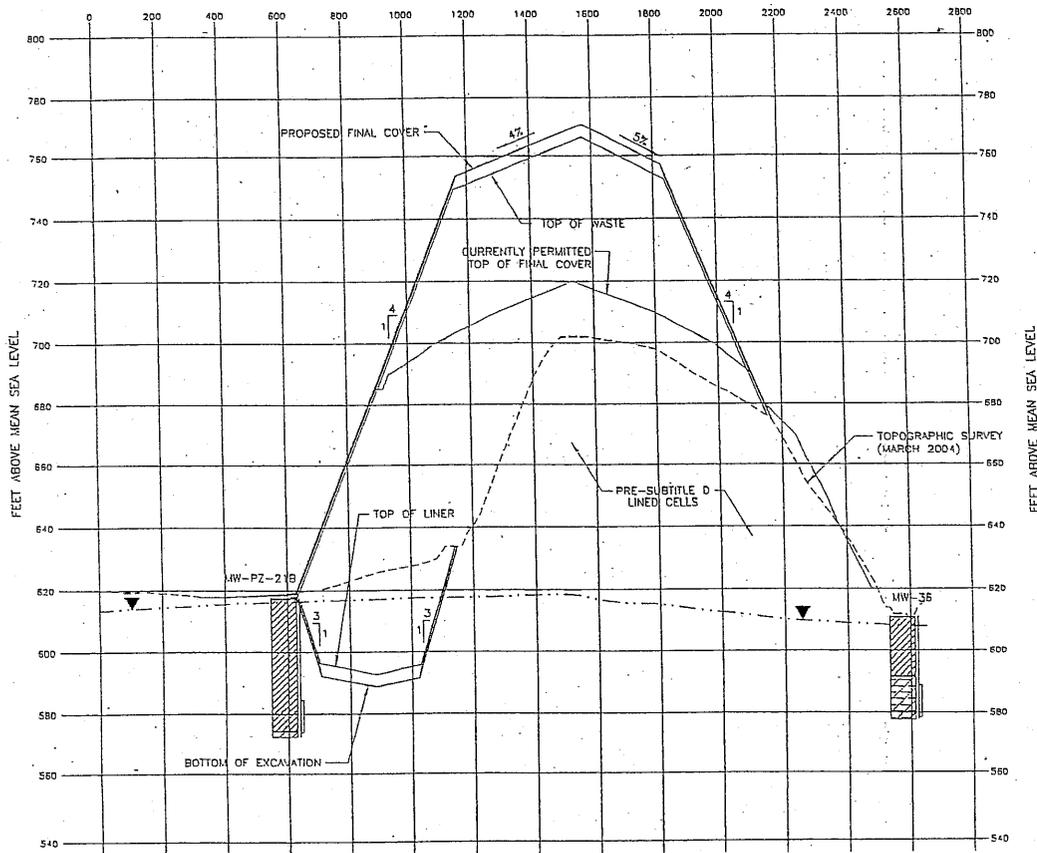
GROUNDWATER LEVEL FROM DECEMBER 1999



REVISED 1/18/2007
PERMIT DRAWINGS



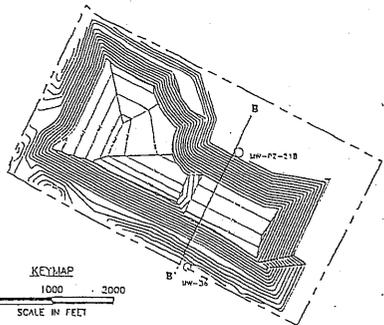
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2	8/22/05	SECOND TECHNICAL N.O.D.		
3	1/18/07	SUPPLEMENTAL COMMENT		
REV. NO.	DATE		DR. BY	APP. BY
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BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A				
ACE REFERENCE NO. 070-03	FILL CROSS SECTIONS		ATTACHMENT 2	
DATE 1/18/2007			SHEET 1 of 4	
FILE: ATTACH_2_SHT_1.dwg				



CROSS SECTION B-B'

NOTES:

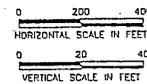
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2. EXCAVATION GRADES FOR PRE-SUBTITLE D CELLS ARE UNKNOWN.
3. SEE ATTACHMENT 12 FOR LINER AND COVER COMPONENTS.
4. SEE ATTACHMENT 4, APPENDIX 4B FOR SOIL BORING INFORMATION AND APPENDIX 4C FOR GEOLOGIC CROSS-SECTIONS.
5. GROUNDWATER LEVELS ARE BASED ON THE STABILIZED WATER LEVELS AS OBSERVED IN THE WEATHERED TAYLOR MARL IN SITE WELLS FROM DECEMBER 1999.
6. SEE ATTACHMENT 14 FOR LOCATIONS OF GAS WELLS.
7. THERE ARE NO PERIMETER OR TOE BERMS UTILIZED AT THIS SITE.



LEGEND

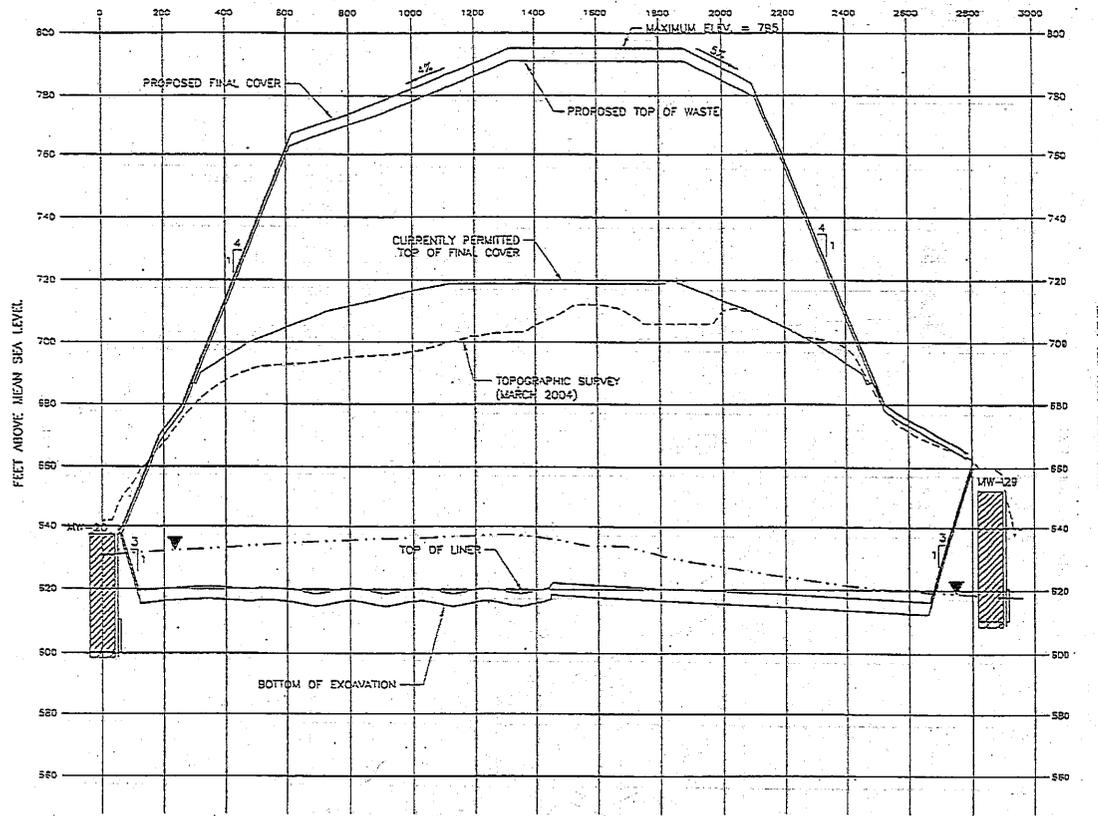
Clay (CL)	Clayey Shale	Shaley Clay
Silty Clay	Shale	Weathered Shale
Fill		

▼ — GROUNDWATER LEVEL FROM DECEMBER 1999



REVISED 8/22/2006
PERMIT DRAWINGS

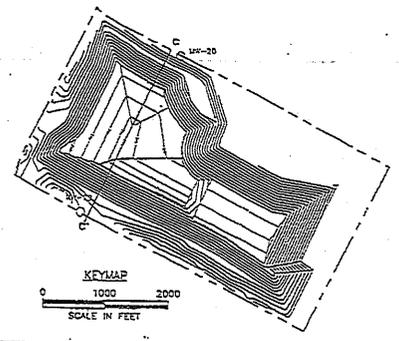
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2	8/22/06	SECOND TECHNICAL N.O.D.		
REV. NO.	DATE		DR. BY	APP. BY
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ACE REFERENCE NO. 070-03		FILL CROSS SECTIONS		ATTACHMENT 2
DATE: 8/22/2006				SHEET 2 of 4
FILE: ATTACH_2.dwg				



CROSS SECTION C-C'

NOTES:

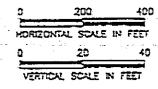
1. ALL EXCAVATION GRADES ARE CURRENTLY PERMITTED UNDER MSW 1447. NO CHANGES IN EXCAVATION DEPTHS ARE PROPOSED AS PART OF THIS AMENDMENT.
2. EXCAVATION GRADES FOR PRE-SUBTITLE D CELLS ARE UNKNOWN.
3. SEE ATTACHMENT 12 FOR LINER AND COVER COMPONENTS.
4. SEE ATTACHMENT 4, APPENDIX 4B FOR SOIL BORING INFORMATION AND APPENDIX 4C FOR GEOLOGIC CROSS-SECTIONS.
5. GROUNDWATER LEVELS ARE BASED ON THE STABILIZED WATER LEVELS AS OBSERVED IN THE WEATHERED TAYLOR MARL IN SITE WELLS FROM DECEMBER 1999.
6. SEE ATTACHMENT 14 FOR LOCATIONS OF GAS WELLS.
7. THERE ARE NO PERIMETER OR TOE BERMS UTILIZED AT THIS SITE.



LEGEND

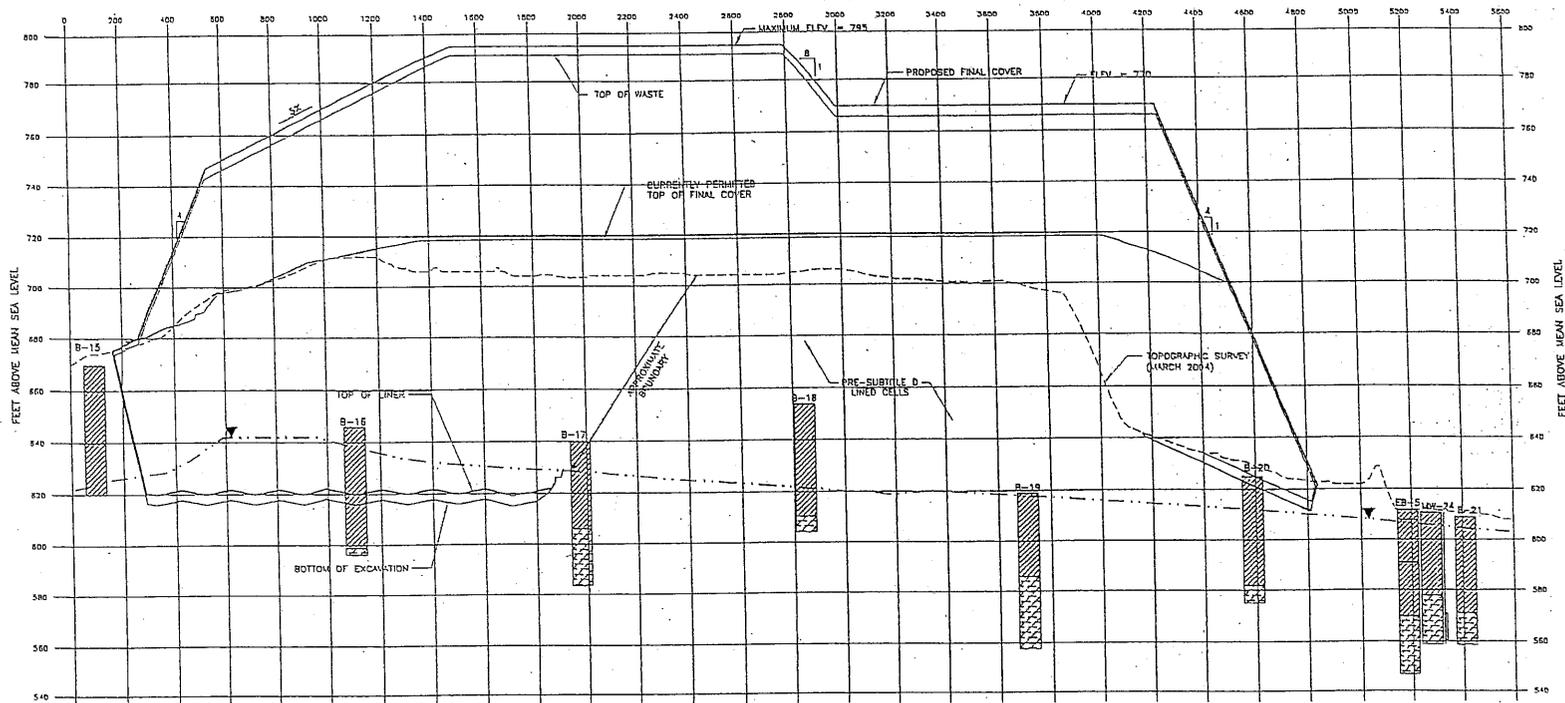
Clay (CL)	Clayey Shale	Shaley Clay
Silty Clay	Shale	Weathered Shale
Fill		

GROUNDWATER LEVEL FROM DECEMBER 1999

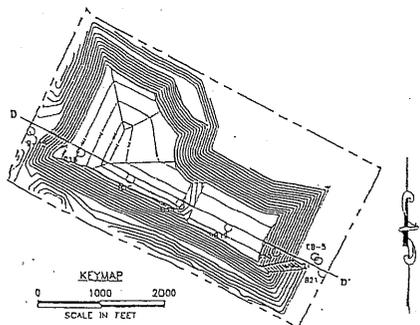


REVISED 5/8/2006
PERMIT DRAWINGS

REV. NO.	DATE	DR. BY	APP. BY
ACE ASSOCIATED CONSULTING ENGINEERS, INC.			
BF BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A			
ACE REFERENCE NO. 070-03		FILL CROSS SECTIONS	ATTACHMENT 2
DATE: 5/5/2006			
FILE: ATTACH_2.dwg		SHEET 3 of 4	

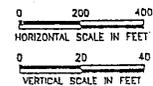


CROSS SECTION D-D'



NOTES:

1. ALL EXCAVATION GRADES ARE CURRENTLY PERMITTED UNDER MSW 1447. NO CHANGES IN EXCAVATION DEPTHS ARE PROPOSED AS PART OF THIS AMENDMENT.
2. EXCAVATION GRADES FOR PRE-SUBTITLE D CELLS ARE UNKNOWN.
3. SEE ATTACHMENT 12 FOR LINER AND COVER COMPONENTS.
4. SEE ATTACHMENT 4, APPENDIX 4B FOR SOIL BORING INFORMATION AND APPENDIX 4C FOR GEOLOGIC CROSS-SECTIONS.
5. GROUNDWATER LEVELS ARE BASED ON THE STABILIZED WATER LEVELS AS OBSERVED IN THE WEATHERED TAYLOR MARL IN SITE WELLS FROM DECEMBER 1999.
6. SEE ATTACHMENT 14 FOR LOCATIONS OF GAS WELLS.
7. THERE ARE NO PERIMETER OR TOE BERMS UTILIZED AT THIS SITE.



LEGEND

- Clay (CL)
- Silly Clay
- Fill
- Clayey Shale
- Shale
- Groundwater Level from December 1999
- Shaley Clay
- Weathered Shale

1	5/8/06	FIRST TECHNICAL N.O.D.		
2	1/18/07	SUPPLEMENTAL COMMENT		
REV. NO.	DATE		DR. BY	APP. BY



ASSOCIATED CONSULTING ENGINEERS, INC.



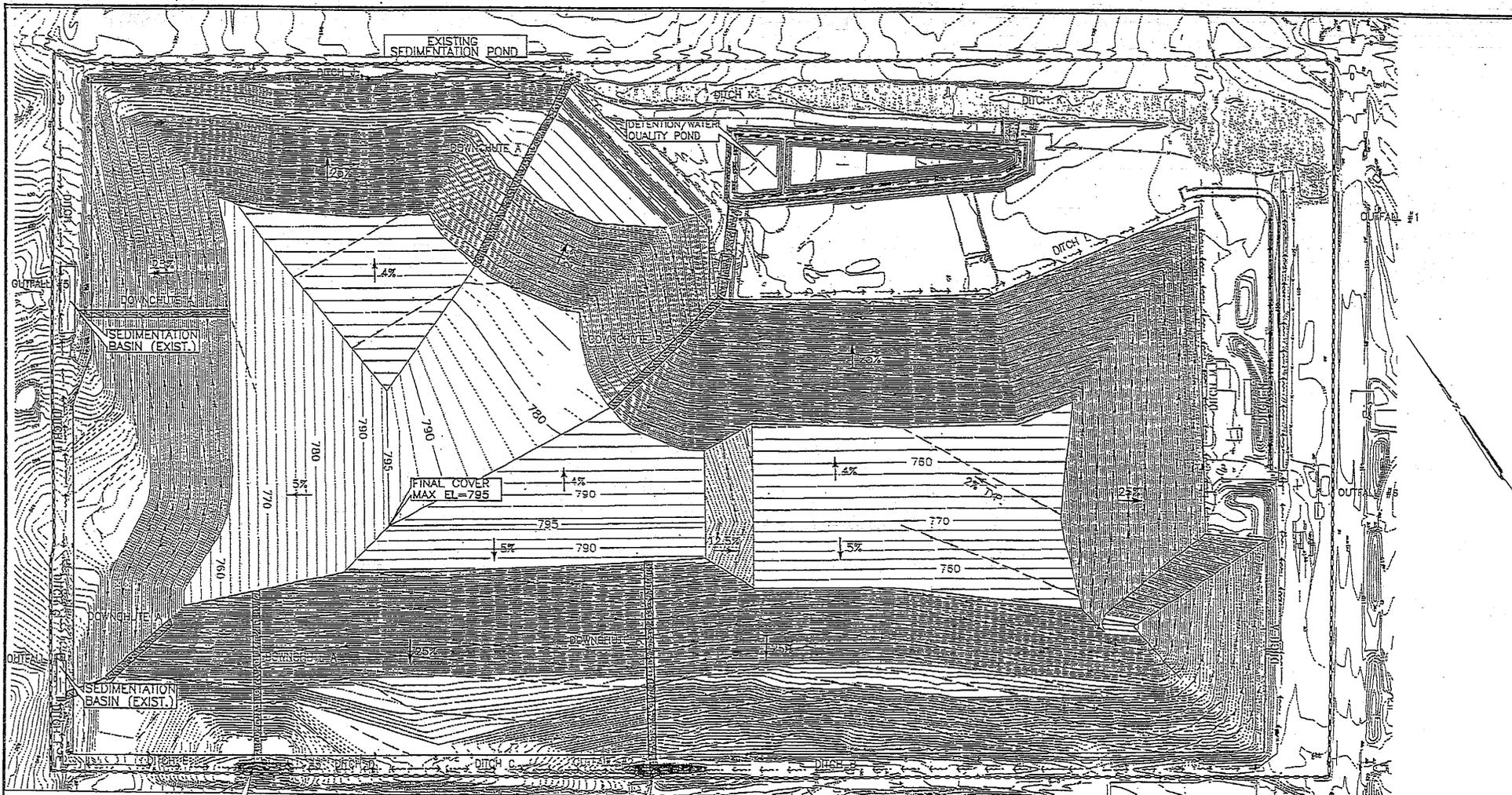
BFI SUNSET FARMS LANDFILL
PERMIT AMENDMENT
MSW 1447-A

REVISED 1/18/2007
PERMIT DRAWINGS

ACE REFERENCE NO. 070-03
DATE: 1/18/2007
FILE: ATTACH_2.dwg

FILL CROSS
SECTIONS

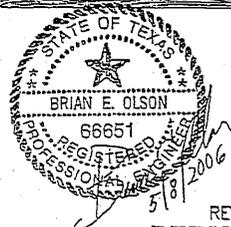
ATTACHMENT
2
SHEET 4 of 4



- NOTES:
1. BASEMAP SOURCE: AERIAL TOPOGRAPHY BY BASE MAPPING COMPANY, LTD., DATED 3/28/2006.
 2. ALL CONTOURS AND ELEVATIONS SHOWN ARE IN FEET ABOVE MEAN SEA LEVEL.
 3. SEE FIGURE 6-A-3 FOR DIVERSION BERM DETAILS.
 4. SEE FIGURE 6-1-3 FOR WATER QUALITY/DETENTION POND DETAILS.
 5. SEE FIGURES 6-5 THROUGH 6-14 FOR DRAINAGE DITCH DETAILS.
 6. SEE ATTACHMENT 7-1 FOR CROSS SECTIONS.

- LEGEND
- PERMIT BOUNDARY
 - DIVERSION BERMS
 - PERIMETER DRAINAGE SWALE
 - 100-yr FLOODPLAIN

SEDIMENTATION POND (EXIST.)



REVISED 5/8/2006
PERMIT DRAWINGS

ASSOCIATED CONSULTING ENGINEERS, INC.	
BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A	
ACE REFERENCE NO. 070-03	ATTACHMENT 7 AND FIGURE 12-1
DATE: 5/8/2006	FINAL CONTOUR MAP
FILE: ATT_7.dwg	

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

EXECUTIVE SUMMARY

March 21, 2007

DESCRIPTION OF APPLICATION

Applicant: BFI Waste Systems of North America, Inc.
Giles Holdings, L.P.

MSW Permit Amendment Application No. 1447A

Type: Type I Municipal Solid Waste Landfill Facility

Request: To issue a municipal solid waste permit, No. 1447A, for vertical expansion of a municipal solid waste Type I 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 Travis County, Texas, at 9912 Giles Road, approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290. The site is within the city limits and extra-territorial jurisdiction of the City of Austin. Structures and other developed features within one mile of the boundary of the site include residences, a school, a day care facility, a historic site, a golf course, other recreational facilities, ponds, industrial and business buildings, and other landfills. The land use immediately adjacent to the site consists of a Type I landfill, an industrial facility, and open land (including agriculture, rights of way, and vacant land). Land use within a 1-mile radius of the site open land (65%), industrial (20%), residential (9%), commercial (2%), recreational (2%), water (1%), and institutional (1%). The waste acceptance rate into the landfill will be an anticipated initial rate of approximately 1,440,000 tons-per-year (approximately 3,950 tons-per-day based on 365 days-per-year of operation) and increasing over time to a maximum acceptance rate of approximately 1,825,000 tons-per-year (approximately 5,000 tons-per-day based on 365 days-per-year of operation). The facility would accept municipal solid waste, regulated asbestos-containing material from municipal sources, construction and demolition wastes, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content, Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, and certain special wastes. The permit application meets the requirements of the Commission's rules and provides the proper 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 Arsen Avakian (512) 239-4419
MSW Permits Section

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 21, 2007

Mr. Brad Dugas
South Central Texas District Manager
BFI Waste Systems of North America, Inc.
4542 Southeast Loop 410
San Antonio, Texas 78222-3925

Re: Municipal Solid Waste (MSW) – Travis County – TCEQ Region 11
BFI Sunset Farms Landfill – MSW Permit Application No. 1447A
Permit Amendment Application – Technically Complete
WWC 11231243, 11344474, 11449032, 11512599, 11635000, and 11640685 + 11660824
RN100542752 / CN600343826

Dear Mr. Dugas:

The technical review of the above referenced municipal solid waste permit application has been completed, and it has been determined by the Municipal Solid Waste Permits Section that the permit application is technically complete. Therefore, for all administrative purposes, the subject application shall be declared technically complete as of the date of this letter.

A copy of the draft permit, the Technical Summary, the Compliance History, and the Executive Director's Preliminary Decision are enclosed. A copy of the technically complete permit application, the draft permit, and the Executive Director's Preliminary Decision must be placed at the location specified on the Part A Application Form (University Hills Branch of the Austin Public Library, 4721 Loyola Lane, Austin, Texas 78723-3939), for public viewing/copying as will be indicated in the Notice of Application and Preliminary Decision. These documents must be available at this location beginning on the first day of newspaper publication. The notice and instructions for publishing will be sent to you by the Chief Clerk's Office.

If you have any questions concerning this matter, please contact Mr. Arten Avakian, at MC 124, P.O. Box 13087, Austin, Texas 78711; telephone number (512) 239-4419.

Sincerely,

A handwritten signature in cursive script that reads "Richard C. Carmichael".

Richard C. Carmichael, Ph.D., P.E.
Manager, Municipal Solid Waste Permits Section
Waste Permits Division

RCC/AJA/fp

Enclosure

cc: Mr. Mr. Ray Shull, Associated Consulting Engineers, Austin

ATTACHMENT E

Compliance History of the Applicant

Compliance History
Prepared Under 30 Texas Administrative Code Chapter 60

Customer/Respondent/Owner-Operator: BFI Waste Systems of North America, Inc.
P.O. Box 201690
San Antonio, Texas 78220-8690
CN600343826

Regulated Entity: BFI Sunset Farms Landfill
MSW Permit Number 1447A
9912 Giles Road
Austin, Texas 78754-9747
RN100542752

Location: Approximately three quarters of a mile north of the
intersection of Giles Road and U.S. Highway 290 in
Travis County, Texas

Compliance History Publication Date: October 1, 2006

Compliance Period: September 1, 2001 through August 31, 2006

Agency Decision Requiring Compliance History (Mark One)

- the issuance, renewal, AMENDMENT, modification, denial suspension or revocation of a permit,
- enforcement,
- the use of announced investigations,
- participation in innovation programs,

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Arten Avakian
Phone Number: (512) 239-4419

Compliance History

Customer/Respondent/Owner-Operator:	CN600343826 BFI Waste Systems of North America, Inc.	Classification: AVERAGE	Rating: 2.94																																										
Regulated Entity:	RN100542752 BFI WASTE SERVICES AUSTIN	Classification: AVERAGE	Site Rating: 19.25																																										
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER:</td> <td style="width: 25%;">TH0522W</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>1452</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>ACCOUNT NUMBER</td> <td>TH0232L</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>TH0232L</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>70311</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>70416</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4845300341</td> </tr> <tr> <td>MUNICIPAL SOLID WASTE DISPOSAL</td> <td>PERMIT</td> <td>1447</td> </tr> <tr> <td>MUNICIPAL SOLID WASTE DISPOSAL</td> <td>PERMIT</td> <td>1447A</td> </tr> <tr> <td>STORMWATER</td> <td>EPA ID</td> <td>TXR05F277</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05O364</td> </tr> <tr> <td>PETROLEUM STORAGE TANK</td> <td>REGISTRATION</td> <td>47896</td> </tr> <tr> <td>REGISTRATION</td> <td></td> <td></td> </tr> <tr> <td>TIRES</td> <td>REGISTRATION</td> <td>99807</td> </tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER:	TH0522W	AIR OPERATING PERMITS	PERMIT	1452	AIR OPERATING PERMITS	ACCOUNT NUMBER	TH0232L	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TH0232L	AIR NEW SOURCE PERMITS	PERMIT	70311	AIR NEW SOURCE PERMITS	PERMIT	70416	AIR NEW SOURCE PERMITS	AFS NUM	4845300341	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1447	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1447A	STORMWATER	EPA ID	TXR05F277	STORMWATER	PERMIT	TXR05O364	PETROLEUM STORAGE TANK	REGISTRATION	47896	REGISTRATION			TIRES	REGISTRATION	99807
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PETROLEUM STORAGE TANK	REGISTRATION	47896																																											
REGISTRATION																																													
TIRES	REGISTRATION	99807																																											
Location:	9912 Giles Rd. Austin TX. 78754. Site LOCATED ON GILES ROAD APPROX. 3/4 MILE NORTH OF HWY 290, EAST OF AUSTIN, TEXAS		Rating Date: September 01 07 Repeat Violator: NO																																										
TCEQ Region:	REGION 11 - AUSTIN																																												
Date Compliance History Prepared:	January 22, 2008																																												
Agency Decision Requiring Compliance History:	Enforcement																																												
Compliance Period:	March 21, 2001 to March 21, 2007																																												

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/05/2004 ADMINORDER 2002-0936-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.111

Description: The leachate head exceeded the 12-inch maximum limit stated in the facility's Site Operating Plan.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.111

Description: The monitoring frequency of the leachate collection sumps was not increased after leachate levels were measured above 12 inches.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to prevent the discharge of air contaminants in such concentration and of such duration as to interfere with the normal use and enjoyment of property.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121

30 TAC Chapter 305, SubChapter F 305.125(11)

Rqmt Prov: PART III, SECTION A.5.h. PERMIT

Description: Failed to conduct quarterly visual inspections of either each outfall or a representative outfall.

Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(2)

Description: Allowed an unauthorized discharge of waste into or adjacent to water in the state.

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.)

1	08/15/2001	(93639)
2	12/27/2001	(93640)
3	05/13/2002	(355)
4	08/13/2002	(98)
5	02/19/2003	(17338)
6	04/15/2003	(18423)
7	12/30/2003	(253810)
8	02/09/2004	(261429)
9	03/30/2004	(265867)
10	08/20/2004	(288762)
11	07/15/2005	(400094)
12	11/29/2005	(437648)
13	03/08/2006	(457600)
14	08/15/2006	(483620)
15	12/14/2006	(532225)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/10/2002 (15423)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)

Description: Failure to comply with visible emission limits for a process gas flare.

Date: 12/29/2003 (253810)

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Unauthorized discharge of sediment.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

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

Compliance History

Regulated Entity

Number: RN100542752
 Name: BFI WASTE SERVICES AUSTIN
 Classification: AVERAGE
 Rating: 17.77
 Publication Date: 10/01/2006

Customer

Number: CN600343826
 Name: BFI Waste Systems of North America, Inc.
 Classification: AVERAGE
 Rating: 2.59
 Publication Date: 10/01/2006

Repeat Violator Ind: NO

Compliance History Start: End:

Enforcement Actions

Type	Effective Date	Violations		
		Citation/Requirement Provision	Abbv. Description	Classification
ADMINORDER	07/05/2004	2D TWC Chapter 26, SubChapter A 26.121 [G]; 30 TAC Chapter 305, SubChapter F 305.125(11); PERMIT PART III, SECTION A.5.h.	Failed to conduct quarterly visual inspections of either each outfall or a representative outfall.	MODERATE
ADMINORDER	07/05/2004	TWC Chapter 26 26.121(a)(2)	Allowed an unauthorized discharge of waste into or adjacent to water in the state.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The leachate head exceeded the 12-inch maximum limit stated in the facility's Site Operating Plan.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The monitoring frequency of the leachate collection sumps was not increased after leachate levels were measured above 12 inches.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 101, SubChapter A 101.4 ; 5C THC Chapter 382, SubChapter A 382.085(b)	Failure to prevent the discharge of air contaminants in such concentration and of such duration as to interfere with the normal use and enjoyment of property.	MODERATE

Criminal Convictions

Conviction Date	Number of		Violations		
	Felonies	Misdemeanors	Citation/Requirement Provision	Abbv. Description	Classification

Chronic Excessive Emissions Events

Investigations

Date	Type
12/27/2001	Compliance Investigation
05/13/2002	Compliance Investigation
06/13/2002	Compliance Investigation
02/19/2003	Compliance Investigation
04/15/2003	Compliance Investigation
12/30/2003	Compliance Investigation
02/09/2004	Compliance Investigation
03/30/2004	Compliance Investigation
08/20/2004	Compliance Invest File Review
07/15/2005	Compliance Invest File Review
11/29/2005	Compliance Invest File Review
03/08/2006	Compliance Invest File Review
08/15/2006	Compliance Investigation

Notices of Violation

Date	Status	Citation/Requirement Provision	Abb. Description	Classification	Self Reported
12/10/2002	RESOLVED	30 TAC Chapter 111, SubChapter A 111.111(a)(4)[G]	Failure to comply with visible emission limits for a process gas flare.	MODERATE	NO
12/29/2003	RESOLVED	TWC Chapter 26 26.121[G]	Unauthorized discharge of sediment.	MODERATE	NO

Environmental Audits

Notice of Audit Date	Disclosure Of Violation			
	DOV Date	Violations		
		Classification	Citation/Requirement Provision	Abb. Description

Environmental Management Systems

Type	Tier	Date of Certification	Implementation Date

Voluntary On-Site Compliance Assessments

Date

Voluntary Pollution Reduction Programs

Name	Level	Start Date of Participation

Compliance History

Regulated Entity

Number: RN100542752
 Name: BFI WASTE SERVICES AUSTIN
 Classification: AVERAGE
 Rating: 17.77
 Publication Date: 10/01/2006

Customer

Number: CN600260426
 Name: Browning-Ferris Industries, Inc.
 Classification: AVERAGE
 Rating: 4.84
 Publication Date: 10/01/2006

Repeat Violator Ind: NO

Compliance History Start: End:

Enforcement Actions

Type	Effective Date	Violations		
		Citation/Requirement Provision	Abbv. Description	Classification
ADMINORDER	07/05/2004	2D TWC Chapter 26, SubChapter A 26.121 [G] ; 30 TAC Chapter 305, SubChapter F 305.125(11) ; PERMIT PART III, SECTION A.5.h.	Failed to conduct quarterly visual inspections of either each outfall or a representative outfall.	MODERATE
ADMINORDER	07/05/2004	TWC Chapter 26 26.121(a)(2)	Allowed an unauthorized discharge of waste into or adjacent to water in the state.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The leachate head exceeded the 12-inch maximum limit stated in the facility's Site Operating Plan.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The monitoring frequency of the leachate collection sumps was not increased after leachate levels were measured above 12 inches.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 101, SubChapter A 101.4 ; 5C THC Chapter 382, SubChapter A 382.085(b)	Failure to prevent the discharge of air contaminants in such concentration and of such duration as to interfere with the normal use and enjoyment of property.	MODERATE

Criminal Convictions

Conviction Date	Number of		Violations		
	Felonies	Misdemeanors	Citation/Requirement Provision	Abbv. Description	Classification

Chronic Excessive Emissions Events

Start Date

Investigations

Date	Type
12/27/2001	Compliance Investigation
05/13/2002	Compliance Investigation
06/13/2002	Compliance Investigation
02/19/2003	Compliance Investigation
04/15/2003	Compliance Investigation
12/30/2003	Compliance Investigation
02/09/2004	Compliance Investigation
03/30/2004	Compliance Investigation
08/20/2004	Compliance Invest File Review
07/15/2005	Compliance Invest File Review
11/29/2005	Compliance Invest File Review
03/08/2006	Compliance Invest File Review
08/15/2006	Compliance Investigation

Notices of Violation

Date	Status	Citation/Requirement Provision	Abbv. Description	Classification	Self Report
12/10/2002	RESOLVED	30 TAC Chapter 111, SubChapter A 111.111(a)(4)[G]	Failure to comply with visible emission limits for a process gas flare.	MODERATE	NO
12/29/2003	RESOLVED	TWC Chapter 26 26.121[G]	Unauthorized discharge of sediment.	MODERATE	NO

Environmental Audits

Notice of Audit Date	Disclosure Of Violation			
	DOV Date	Violations		
		Classification	Citation/Requirement Provision	Abbv. Description

Environmental Management Systems

Type	Tier	Date of Certification	Implementation Date
------	------	-----------------------	---------------------

Voluntary On-Site Compliance Assessments

Date

Voluntary Pollution Reduction Programs

Name	Level	Start Date of Participation
------	-------	-----------------------------

Compliance History

Regulated Entity

Number: RN100542752
 Name: BFI WASTE SERVICES AUSTIN
 Classification: AVERAGE
 Rating: 17.77
 Publication Date: 10/01/2006

Customer

Number: CN602633174
 Name: Giles Holdings, L.P.
 Classification: AVERAGE
 Rating: 17.77
 Publication Date: 10/01/2006

Repeat Violator Ind: NO

Compliance History Start: End:

Enforcement Actions

Type	Effective Date	Violations		
		Citation/Requirement Provision	Abb. Description	Classification
ADMINORDER	07/05/2004	2D TWC Chapter 26, SubChapter A 26.121 [G]; 30 TAC Chapter 305, SubChapter F 305.125(11); PERMIT PART III, SECTION A.5.h.	Failed to conduct quarterly visual inspections of either each outfall or a representative outfall.	MODERATE
ADMINORDER	07/05/2004	TWC Chapter 26 26.121(a)(2)	Allowed an unauthorized discharge of waste into or adjacent to water in the state.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The leachate head exceeded the 12-inch maximum limit stated in the facility's Site Operating Plan.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The monitoring frequency of the leachate collection sumps was not increased after leachate levels were measured above 12 inches.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 101, SubChapter A 101.4; 5C THC Chapter 382, SubChapter A 382.085(b)	Failure to prevent the discharge of air contaminants in such concentration and of such duration as to interfere with the normal use and enjoyment of property.	MODERATE

Criminal Convictions

Conviction Date	Number of		Violations		
	Felonies	Misdemeanors	Citation/Requirement Provision	Abb. Description	Classification

Chronic Excessive Emissions Events

<input type="text" value="Start Date"/>

Investigations

Date	Type
12/27/2001	Compliance Investigation
05/13/2002	Compliance Investigation
06/13/2002	Compliance Investigation
02/19/2003	Compliance Investigation
04/15/2003	Compliance Investigation
12/30/2003	Compliance Investigation
02/09/2004	Compliance Investigation
03/30/2004	Compliance Investigation
08/20/2004	Compliance Invest File Review
07/15/2005	Compliance Invest File Review
11/29/2005	Compliance Invest File Review
03/08/2006	Compliance Invest File Review
08/15/2006	Compliance Investigation

Notices of Violation

Date	Status	Citation/Requirement Provision	Abbv. Description	Classification	Self Report
12/10/2002	RESOLVED	30 TAC Chapter 111, SubChapter A 111.111(a)(4)[G]	Failure to comply with visible emission limits for a process gas flare.	MODERATE	NO
12/29/2003	RESOLVED	TWC Chapter 26 26.121[G]	Unauthorized discharge of sediment.	MODERATE	NO

Environmental Audits

Notice of Audit Date	Disclosure Of Violation			
	DOV Date	Violations		
		Classification	Citation/Requirement Provision	Abbv. Description

Environmental Management Systems

Type	Tier	Date of Certification	Implementation Date
------	------	-----------------------	---------------------

Voluntary On-Site Compliance Assessments

Date

Voluntary Pollution Reduction Programs

Name	Level	Start Date of Participation
------	-------	-----------------------------

Early Compliance

Date	Description
------	-------------

[Central Registry Help](#)

[Central Registry Glossary](#)

Compliance History

regulated Entity

Number: RN100542752
 Name: BFI WASTE SERVICES AUSTIN
 Classification: AVERAGE
 Rating: 17.77
 Publication Date: 10/01/2006

Customer

Number: CN601527963
 Name: BFI Waste Services of Texas, LP
 Classification: AVERAGE
 Rating: 3.27
 Publication Date: 10/01/2006

Repeat Violator Ind: NO

Compliance History Start: End:

Enforcement Actions

Type	Effective Date	Violations		
		Citation/Requirement Provision	Abbv. Description	Classification
ADMINORDER	07/05/2004	2D TWC Chapter 26, SubChapter A 26.121 [G] ; 30 TAC Chapter 305, SubChapter F 305.125(11) ; PERMIT PART III, SECTION A.5.h.	Failed to conduct quarterly visual inspections of either each outfall or a representative outfall.	MODERATE
ADMINORDER	07/05/2004	TWC Chapter 26 26.121(a)(2)	Allowed an unauthorized discharge of waste into or adjacent to water in the state.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The leachate head exceeded the 12-inch maximum limit stated in the facility's Site Operating Plan.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 330, SubChapter F 330.111	The monitoring frequency of the leachate collection sumps was not increased after leachate levels were measured above 12 inches.	MODERATE
ADMINORDER	07/05/2004	30 TAC Chapter 101, SubChapter A 101.4 ; 5C THC Chapter 382, SubChapter A 382.085(b)	Failure to prevent the discharge of air contaminants in such concentration and of such duration as to interfere with the normal use and enjoyment of property.	MODERATE

Criminal Convictions

Conviction Date	Number of		Violations		
	Felonies	Misdemeanors	Citation/Requirement Provision	Abbv. Description	Classification

Chronic Excessive Emissions Events

<input type="text" value="Start Date"/>

Investigations

Date	Type
12/27/2001	Compliance Investigation
05/13/2002	Compliance Investigation
06/13/2002	Compliance Investigation
02/19/2003	Compliance Investigation
04/15/2003	Compliance Investigation
12/30/2003	Compliance Investigation
02/09/2004	Compliance Investigation
03/30/2004	Compliance Investigation
08/20/2004	Compliance Invest File Review
07/15/2005	Compliance Invest File Review
11/29/2005	Compliance Invest File Review
03/08/2006	Compliance Invest File Review
08/15/2006	Compliance Investigation

Notices of Violation

Date	Status	Citation/Requirement Provision	Abbv. Description	Classification	Self Report
12/10/2002	RESOLVED	30 TAC Chapter 111, SubChapter A 111.111(a)(4)[G]	Failure to comply with visible emission limits for a process gas flare.	MODERATE	NO
12/29/2003	RESOLVED	TWC Chapter 26 26.121[G]	Unauthorized discharge of sediment.	MODERATE	NO

Environmental Audits

Notice of Audit Date	Disclosure Of Violation				
	DOV Date	Violations			
		Classification	Citation/Requirement Provision	Abbv. Description	

Environmental Management Systems

Type	Tier	Date of Certification	Implementation Date
------	------	-----------------------	---------------------

Voluntary On-Site Compliance Assessments

Date

Voluntary Pollution Reduction Programs

Name	Level	Start Date of Participation
------	-------	-----------------------------

Early Compliance

Date	Description
------	-------------

[Central Registry Help](#) [Central Registry Glossary](#)

ATTACHMENT F

Executive Director's Response to Public Comment

Proposed Amendment to TCEQ MSW Permit No. 1447
BFI Sunset Farms Landfill

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 SEP 28 PM 2:06

Application by
BFI Waste Systems of North America,
Inc.
for TCEQ MSW Permit No. 1447A

§
§
§
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Before the
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment on the application by BFI Waste Systems of North America, Inc. (BFI, applicant), for an amendment to TCEQ Municipal Solid Waste (MSW) Permit Number 1447 (BFI Sunset Farms Landfill), and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC), Section (§) 55.156, the Executive Director prepares a response to all timely, relevant and material, or significant, comments before issuing a permit. The TCEQ Office of the Chief Clerk received timely comment letters, and comments at the public meeting held May 24, 2007, from eight elected officials¹ and from 86 concerned citizens representing themselves and various organizations². A comment was also received from the Applicant. This Response to Public Comment addresses all timely public comments received, whether or not withdrawn.

If you would like more information about this application or the permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ Web site at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The BFI Waste Systems of North America Sunset Farms Landfill is located in Travis County, Texas, approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290. The site is within the city limits and extra-territorial jurisdiction of the City of Austin. The address of the facility entrance is 9912 Giles Road.

The landfill is a Type I municipal solid waste landfill, with a total capacity of 27,703,735 cubic yards (waste and daily cover) and final maximum elevation of 720 feet mean sea level (msl) under current MSW Permit No. 1447. The landfill is currently authorized to operate 24 hours a day, seven days a week. The total area within the permit boundary is approximately 349.4 acres, of which approximately 251.5 acres is designated for waste disposal.

MSW Permit Amendment Application No. 1447A proposes to expand the landfill vertically by 75 feet to a new final maximum elevation of 795 feet msl, and increase landfill capacity by 10,630,000 cubic yards, to a total of 38,333,735 cubic yards (waste and daily cover). The operating hours, total area within the permit boundary, and area designated for waste disposal are not changed by this application. The application indicates that the site life will be approximately 8 years, and that waste will be accepted for disposal at this site at the initial rate of approximately 3,150 tons-per-day, increasing over time to a maximum acceptance rate of approximately

5,000 tons-per-day.

The permittee is currently authorized and would continue to be authorized to dispose of municipal solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including household garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, construction-demolition waste, and yard waste. The facility may also accept regulated asbestos-containing material from municipal sources, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content, Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, and certain special wastes identified in Part IV of the application. Prohibited wastes include wastes identified in 30 TAC §330.5(e), regulated hazardous wastes (other than municipal hazardous waste or hazardous waste from conditionally exempt small quantity generators), radioactive wastes, polychlorinated biphenyl (PCB) wastes, nonhazardous Class 1 industrial wastes (other than that considered Class 1 only because of asbestos content), or any other wastes not authorized in the permit.

Procedural History

The Executive Director received BFI's application on January 20, 2006, and declared it administratively complete on January 31, 2006. The TCEQ Office of the Chief Clerk mailed Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment on February 6, 2006. The TCEQ Office of the Chief Clerk mailed an amended Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment on February 22, 2006. BFI published the amended notice in English in the *Austin American-Statesman* on February 27, 2006, and in Spanish in *El Mundo* on March 2, 2006.

The Executive Director completed the technical review of the application on March 21, 2007, and prepared a draft permit. The TCEQ Office of the Chief Clerk mailed Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit on March 29, 2007. The TCEQ Office of the Chief Clerk mailed an Amended Notice of Application and Preliminary Decision and Notice of Public Meeting for Municipal Solid Waste Permit on May 7, 2007. BFI published its second notice April 26, 2007, May 3, 2007, May 10, 2007, and May 17, 2007, in English in the *Austin American-Statesman* and on the same dates in Spanish in *El Mundo*.

The Executive Director held a public meeting May 24, 2007, in Manor, Texas. The comment period was scheduled to close on June 18, 2007, but was extended by the Executive Director to close on June 29, 2007.

This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).³

Rules, Law, and Records

The following Internet sites contain rules, statutory law, and other information that applies to this application.

Texas statutes

tlo2.tlc.state.tx.us/statutes/index.htm

TCEQ rules, codified in Title 30 Texas Administrative Code	www.tceq.state.tx.us/rules/index.html , and info.sos.state.tx.us/pls/pub/readtac\$ext.ViewTAC
Secretary of State	www.sos.state.tx.us
Federal statutes and rules	www.epa.gov/epahome/lawregs.htm

Because the Executive Director declared this permit application administratively complete on January 31, 2006, the application was reviewed under the 30 TAC Chapter 330 rules effective prior to March 27, 2006. All references to 30 TAC Chapter 330 rules are to those rules in effect prior to March 27, 2006. These rules are available at:

www.tceq.state.tx.us/permitting/waste_permits/msw_permits/msw_330rules_old.html

Commission records for this facility are available for viewing and copying at the TCEQ Central Office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records), and at the TCEQ Region 11 Office in Austin at 2800 S IH 35, Suite 100. The technically complete application is also available for review and copying at the University Hills Public Library in Austin, at 4721 Loyola Lane.

If you would like to file a complaint about an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints/. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action.

COMMENTS AND RESPONSES

Copies of comment letters are available for examination in the TCEQ Office of the Chief Clerk. Comments have been grouped under the following topics for response:

COMMENT	TOPIC
1	Opposition to Expansion
2	Public Meeting Date, Comment Period, and Issues for Hearing
3	Access to Application Materials
4	Representative of BFI with Legal Authority Over Application
5	Identification of Permittee and Site Owners
6	Permit Term, End Date for Waste Acceptance, and Coordination with CAPCOG
7	Regional Capacity, Facility as a Regional Landfill, and Planning for New Location
8	Applicable Municipal Solid Waste Rules
9	Low Economic Area, Health and Environmental Risks, and Environmental Impact Statement
10	Compliance History, Complaint Response, and Enforcement
11	Business Practices of Applicant
12	Application Format and Professional Responsibilities
13	Compatibility with Surrounding Community and Growth Trends
14	Facility Location

COMMENT	TOPIC
15	Buffer Zone and Easements
16	Ownership and Use of 54.13-acre Tract of Land Transferred from Giles Holdings to BFI
17	Size of Facility and Visual Impact
18	Health Effects from Waste Buried at Site, and Emissions
19	Restrictions on Types of Waste Accepted
20	Traffic and Routes to Site
21	Details in Site Operating Plan
22	Odor and Air Quality
23	Operation of Working Face
24	Dust
25	Operating Hours, Noise, and Vibrations
26	Tracking of Mud and Dirt onto Public Roadways
27	Windblown Trash, Roadside Trash, and Illegal Dumping
28	Scavenging Animals and Vectors
29	Liner and Leachate Collection System Design, Construction, and Stability
30	Effect of Vertical Expansion over Pre-Subtitle D Waste Areas
31	Daily Cover
32	Soil Stockpiles
33	Drainage and Erosion Controls
34	Cover Inspection and Repair
35	Leachate Management and Contaminated Water Management
36	Contaminated Water Runoff
37	Final Cover Design
38	Subsurface Investigation and Groundwater Monitoring
39	Landfill Gas Management
40	Wetlands, Habitat, and Endangered Species Protection
41	Financial Assurance
42	Recycling
43	Post-Closure Care, and Use of Land After Closure
44	Comments by Applicant

COMMENT 1 Opposition to Expansion

Four elected officials and 62 concerned citizens explicitly stated opposition to the proposed landfill expansion. None of the comments from elected officials or concerned citizens expressed support for the expansion. Several commentators requested that the Commission deny the proposed expansion, as well as future expansions of the BFI Sunset Farms Landfill or the adjacent operating landfill.

RESPONSE 1

The Executive Director acknowledges the commentators' opposition. The TCEQ is responsible

for reviewing the application for compliance with state statutes and TCEQ's rules. Accordingly, the TCEQ does not have jurisdiction to prohibit owners and operators from seeking an authorization; nor can the TCEQ prohibit owners and operators from receiving authorization if they comply with all statutory and regulatory requirements. The Executive Director has determined that the application complies with applicable laws.

COMMENT 2 Public Meeting Date, Comment Period, and Issues for Hearing

Several commentors registered their concern that the public meeting notices issued for this application were confusing, that the deadline for public comments was unclear, and that the May 24, 2007, date for the public meeting was inconvenient. Several commentors also asked which comments would be responded to and could be considered if a contested case hearing is granted. One commentor asked why commissioners don't attend the public meeting since the Executive Director may only make recommendations to the Commission on an application.

RESPONSE 2

The TCEQ regrets any confusion and inconvenience regarding the public meeting and comment period. BFI requested the TCEQ Office of Public Assistance to schedule a public meeting rather than wait for public meeting requests and requested that the TCEQ issue an Amended Notice of Application and Preliminary Decision and Notice of Public Meeting. BFI arranged the public meeting date with the Office of Public Assistance and then published an amended notice. The last date of publication was May 17, 2007, which made the deadline for public comments June 18, 2007 (the first business day on or after the 30th day after the last date of publication). At the request of several interested parties including Texas Senator Kirk Watson, the deadline for comments was extended to June 29, 2007.

The Commission considers all timely received, relevant and material, or significant public comments, including those submitted in writing and those stated during the formal comment period at the public meeting held on May 24, 2007. TCEQ rules prohibit commissioners from considering comments on an application until after that application is formally referred to them, a procedural step completed after the Executive Director evaluates public input. It would not be practical for the commissioners to attend the 300-400 public meetings held annually around Texas for air quality, water quality, and hazardous and municipal solid waste applications.

COMMENT 3 Access to Application Materials

Several commentors indicated that persons living in neighborhoods surrounding the facility did not have access to the application and revisions to the application or did not have enough time to critically evaluate the information. Travis County Judge Samuel Biscoe commented that the County requested and received the initial application in its entirety, but not the revisions, and that it reserves the right to review and comment on information in those documents. One commentor asked why the applicant was not required to provide an electronic copy of the application on a publicly accessible Internet site.

RESPONSE 3

The notices for this application indicated that the application is available for viewing and copying at the University Hills Branch of the Austin Public Library, 4721 Loyola Lane, Austin, Texas, approximately two and one-half miles southeast of the BFI Sunset Farms Landfill.

Access to the library is free to all persons, whether or not they are residents of the City of Austin. BFI indicated that its staff placed the initial application, all revisions, and the technically complete application in the library.

The comment from Judge Biscoe reported that the County requested from the applicant and received the initial volumes of the application, but did not state whether the County formally requested any of the revisions or the technically complete application from BFI. The Executive Director did not receive a request from Travis County to have BFI supply a copy of the application, revisions, or technically complete application to the County.

MSW rules applicable to BFI's application do not require the application and revisions to be provided on the Internet.

COMMENT 4 Representative of BFI with Legal Authority Over Application

One commentor noted that the signatory of the original application, dated August 1, 2005, Mr. Heath Eddlebutte, is apparently no longer associated with the application. The commentor asked who is now the person with legal authority over the application and if the application has been updated.

RESPONSE 4

The person who now has legal authority over the application is Mr. Brad Dugas, South Central Texas District Manager, BFI Waste Systems of North America, Inc. BFI updated the application to reflect the change, as can be seen in the technically complete application.

COMMENT 5 Identification of Permittee and Site Owners

Several commentors noted that the draft permit and Notice of Application and Preliminary Decision identified two entities (BFI Waste Systems of North America, Inc., and Giles Holdings, L.P.) as both "permittee" and "site owner," and commented that the permit should be changed to clarify who is in what role, and who will be legally responsible for the facility. Several commentors also asked for clarification about the role of Mobley Chemicals, Inc. (identified in the property owner affidavit section of the permit application) and the role of Tiger Corporation (the entity identified as site owner in the original permit issued in 1982 and in the permit transfer issued in 1997). One commentor asked why the property ownership has changed. Several commentors asked about the relationship between BFI and Allied Waste Industries.

RESPONSE 5

The Executive Director's draft permit used a format that did not differentiate the permittee and site owner. To clarify this issue, the Executive Director has changed the draft permit to: (1) identify the Applicant, BFI Waste Systems of North America, Inc., as the sole permittee, and (2) identify BFI Waste Systems of North America, Inc., and Giles Holdings, L.P., together as property owners. These changes reflect the information submitted on the Part A application form in Part I of the permit application. The permittee is responsible for the operation, closure, and post-closure care facility. However, under 30 TAC §330.52(b)(7), the TCEQ may also hold the property owner of record either jointly or severally responsible for the operation, maintenance, and closure and post-closure care of the site.

Part IJ of the application explains that Mobley Chemicals, Inc., became Texas Landfill

Consultants, Inc., which in turn became Giles Holdings, L.P., and that all assets of Mobley Chemicals, Inc., are now held by Giles Holdings, L.P.

The application does not detail the history and role of Tiger Corporation. BFI informed the Executive Director that Tiger Corporation was originally a partnership of BFI and the Mobley family and that BFI purchased the Mobley interests in Tiger, which included an option to purchase the land. After BFI did not exercise the land purchase option, BFI assimilated Tiger Corporation's interests in the permit into BFI. The land was purchased instead by Mobley, whose assets are owned by Giles Holdings. Giles later sold approximately 54.13 acres of the land to BFI. The Executive Director does not know exact reason for the sale as 30 TAC §330.52(b)(7) requires that the permit application identify the property owner, but does not require an explanation of why ownership may have changed.

Section I.L in Part I of the application states that BFI Waste Systems of North America, Inc., is a subsidiary of Allied Waste Industries.

COMMENT 6 Permit Term, End Date for Waste Acceptance, and Coordination with CAPCOG

Several commentors expressed concern that the proposed permit has no expiration date and/or stated their wish that the landfill be closed immediately, or as soon as possible. Several other commentors, including public officials expressed concern about potentially conflicting statements in the application regarding expected site life and date of last receipt of wastes. Commentors also asked whether the agreement between BFI and CAPCOG (Capitol Area Council of Governments) regarding conformance with the regional solid waste management plan (RSWMP) was meaningful or enforceable. One commentor expressed concern that the Final Closure Plan does not indicate the closure date.

RESPONSE 6

MSW permits are generally issued for the life of a site, including the closure and post-closure care periods. MSW permits must remain in place after the last receipt of waste and after closure of a facility while permit-required activities, such as post-closure care monitoring and maintenance continue.

The original application lacked definitive evidence of conformance with the RSWMP and indicated a site life extending to 2018, with no certain end date for last receipt of wastes. The technically complete application included a conditional agreement between BFI and CAPCOG regarding conformance with the RSWMP. Under the agreement, BFI promised to cease accepting waste on or before November 1, 2015, provided the terms of the agreement were met. The conditional agreement was incorporated into the draft permit as a Special Provision. At the public meeting on May 24, 2007, BFI stated unconditionally that it would cease accepting waste on or before November 1, 2015. Therefore, the Executive Director has revised the draft permit to add a Special Provision specifying that BFI receive no waste after November 1, 2015. Although the commission does not generally have authority to enforce agreements between other parties, the deadline for receiving waste is now enforceable as a permit provision.

The Final Closure Plan (Attachment 12 to Part III of the application) details procedures and specifications for closure in accordance with 30 TAC §330.253, which does not require the plan to specify a date for last receipt of waste or initiation of final closure.

COMMENT 7 Regional Capacity, Facility as a Regional Landfill, and Planning for New Location

Several commentors stated that Travis County has sufficient landfill capacity and that expansion of the BFI Sunset Farms Landfill is not necessary. Other commentors recommended that BFI not operate the facility as a regional landfill and not accept waste from communities that do not have recycling programs. One commentor observed that BFI solicits waste from outside Travis County and asked whether BFI, Travis County, or the City of Austin subsidize the waste disposal costs of the other counties. One commentor asserted that the current landfill has sufficient capacity to operate until 2015 and that there is no need for expansion. Several commentors asked why the applicant, anticipating need for more capacity, has not found a new location to permit a new facility. In their opinion, allowing an expansion decreases the urgency to find a new location and prolongs operations at the current site. Travis County Commissioner Davis stated that the County offered financial assistance to help BFI find a new site, but that BFI did not accept the assistance. Several commentors opposed regional landfills in Travis County, new facilities in certain places in Travis County, and new landfills in Travis County.

RESPONSE 7

Local and regional solid waste planning (including capacity planning and interregional waste transfer) is a responsibility of local governments. The Capitol Area Council of Governments, which has jurisdiction over regional solid waste planning in this area, has conditionally determined that BFI's application to expand Sunset Farms Landfill complies with the regional solid waste management plan for Travis County and surrounding areas. The TCEQ does not have authority to consider the need for landfill capacity in deciding whether to issue an MSW landfill permit. The TCEQ does not have authority to restrict the area a landfill serves or consider the service area in deciding whether to issue a permit. The commission considers the application filed and does not have authority to require an applicant to apply to locate a landfill in a different location.

COMMENT 8 Applicable Municipal Solid Waste Rules

Several commentors expressed concern that the Executive Director processed BFI's application under the MSW rules that were in effect before March 27, 2006, instead of the revised rules that became effective on March 27, 2006 (2006 Revisions).

RESPONSE 8

BFI's application is subject to the rules in effect before the 2006 Revisions as reflected in current 30 TAC §330.1(a)(2). Applications for new permits and major amendments to existing permits that were administratively complete as of the effective date of the 2006 Revisions shall be considered under the former rules unless the applicant elects otherwise. The Executive Director received BFI's amendment application for Sunset Farms Landfill on January 20, 2006, and declared it administratively complete on January 31, 2006. Therefore, the Executive Director properly processed the application under the MSW rules in effect before March 27, 2006. The Site Operating Plan (SOP) meets revised SOP requirements that became effective December 2, 2004, which were not significantly changed by the subsequent 2006 Revisions. In addition, according to §330.1(a)(2) in the 2006 Revisions, the facility will be required to submit modifications required by the 2006 Revisions within one year after the Commission's decision on the application has become final and appealable, unless a longer period of time is specified

for the particular requirement.

COMMENT 9 Low Economic Area, Health and Environmental Risks, and Environmental Impact Statement

Several commentors expressed the feeling that the area in which the landfill is located is targeted for waste disposal because of perceived low economic status of residents. Many commentors asked if the State had performed any environmental assessments or comprehensive health studies to determine what individual and/or cumulative risks and impacts may be caused by the Sunset Farms Landfill, adjacent landfills, and related activities (such as emissions from vehicles going to and from the landfill, and landfill gas-fueled electrical generation facilities), as well as effects from other traffic that will be using new and projected highways in the area.

RESPONSE 9

The TCEQ considers MSW landfill applications under the commission's rules which apply to landfill applications. When evaluating permits, TCEQ takes into consideration the surrounding community regardless of its socioeconomic status.

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must prepare detailed statements known as an Environmental Impact Statements (EIS) for projects receiving federal funding. An EIS is not required for state actions such as considering this application.

COMMENT 10 Compliance History, Complaint Response, and Enforcement

Many commentors stated that the facility has a poor compliance history, with ongoing problems including odors, uncontrolled storm water runoff and sediment, and windblown trash, and urged that the TCEQ not grant a permit amendment which they believe would worsen existing problems. Several commentors stated that they have contacted the landfill operator when problems occur, but in their opinion the operator is not responsive or does not correct the problem. Commentors also stated that they have contacted the TCEQ and gotten no formal response on complaints, or by the time an investigator from the TCEQ is able to respond, the problem the complainant experienced (such as odor) has gone, and/or that the TCEQ fails to identify a violation or enforce, giving the perception of being more interested in permitting than addressing complaints and protecting citizens from bad practices. One commentor expressed concern that the TCEQ does not have enough staff to pursue enforcement. Another commentor stated that the City of Austin renewed a contract with facility but did nothing to curtail behaviors that threaten health and property values.

RESPONSE 10

During the technical review, a compliance history review of the company and the site is conducted based on the criteria in 30 TAC Chapter 60. These rules may be found on the TCEQ website at www.tceq.state.tx.us/rules/index.html, and on the Texas Secretary of State website at [info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC). The compliance history for the company and site is reviewed for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement

orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

The BFI Sunset Farms Landfill permit amendment application was received after September 1, 2002, and the company and site have been rated and classified pursuant to Title 30, Chapter 60 of the Texas Administrative Code. A company and site may have one of the following classifications and ratings:

CLASSIFICATION	RATING
High	< 0.10 (above-average compliance record)
Average by Default	3.01 (for sites which have never been investigated)
Average	0.10 < Rating < 45 (generally complies with environmental regulations)
Poor	45 < Rating (performs below average)

This site has a rating of 17.77 and a classification of Average. The company rating and classification for BFI Waste Systems of North America, Inc. (the average of the ratings for all sites the company owns), is 2.59 and Average. The company rating and classification for Giles Holdings is 17.77 and Average.

The MSW rules and air rules that apply to landfills require procedures to be included in the permit for various monitoring and inspection activities, and response actions depending on circumstances, which are enforceable permit provisions. However, the TCEQ is not involved in direct contacts between neighbors or other potentially affected parties and a permitted facility, and does not have rules requiring formal procedures for those contacts and responses.

The TCEQ regrets that some commentors have not been satisfied with the commission's response to complaints about the facility. Commission inspectors have been actively involved responding to complaints about this facility, and appropriate compliance actions have been taken by the commission in response to complaints.

The TCEQ does not have jurisdiction over and is not involved in contracts between waste management entities, such as BFI, and customers, such as the City of Austin. The decision of a customer to renew a contract is not a matter considered in the permitting process, and therefore information relating to the matter is not required in the permit application.

COMMENT 11 Business Practices of Applicant

One commentor alleged that the applicant has a history of unlawful business practices, and another questioned whether the facility "cuts corners" to lower its operating costs to be able to charge a lower disposal fee than other landfills.

RESPONSE 11

As stated in the response to comments regarding compliance history, an applicant's compliance history is considered when deciding whether to grant an application to amend a permit. The compliance history of a company and facility is based on the criteria in 30 TAC Chapter 60, regarding compliance with matters within the jurisdiction of the TCEQ, which does not ordinarily include business practices. In addition, the setting of disposal fees is at the discretion

of the operator, who must operate the facility in compliance with applicable rules and regulations and the permit, regardless of what disposal fees it charges customers.

COMMENT 12 Application Format and Professional Responsibilities

One commentator expressed concern that two engineers signed and sealed the application without specifying who is taking responsibility for what part, that both an engineer and a geoscientist signed and sealed the geology report (Attachment 4 to Part III of the application) without specifying who is taking responsibility for what part, and that only title sheets were signed and sealed. The commentator also stated that figures in Attachment 4 do not have page numbers.

RESPONSE 12

The application complies with the sealing requirements. TCEQ rules at 30 TAC §330.51(d)(1) require the responsible engineer to seal, sign, and date each sheet of engineering plans, drawings, and the title or contents page of bound reports; 30 TAC §330.56(d) requires that a qualified groundwater scientist (who may be a licensed engineer or licensed geoscientist) prepare and sign the geology report, except for certain reports within the geology report that must be signed and sealed by an engineer. Documents submitted in three-ring binders are considered bound reports; therefore a person sealing a title page is accepting responsibility for the entire document, unless noted otherwise. If more than one engineer or geoscientist seals a document, it is taken to mean that each is accepting full responsibility for the contents as work done by them or under their supervision, unless notes are included to specify otherwise. Seals on individual drawings and other items within the application indicate that a person is responsible for that particular item, whether or not they are sealing the title page of the document.

Each figure in Attachment 4 to Part III of the application bears a separate figure number following a logical numbering scheme, and each is listed in the table of contents. Each page can be referenced by its unique number, and therefore is considered to meet the requirement of 30 TAC §330.51(e)(3) that all pages contain a page number.

COMMENT 13 Compatibility with Surrounding Community and Growth Trends

Most commentators expressed the opinion that the landfill is incompatible with the surrounding community and growth trends, and that the landfill does and would continue to impact the quality of the environment and quality of life in the surrounding area. Commentors noted that the area is in the desired development zone for the Austin area, and expressed concern that the presence of the BFI and other landfills harms property values and hampers the ability of the area to grow and prosper, and ultimately will undermine the tax base for the area. Several commentators stated that the application did not provide sufficient or complete information regarding compatibility, and one commentator stated that the maps in the application are old and do not reflect present land use or ownership. One commentator asked why more building permits are issued for areas close to the landfill.

RESPONSE 13

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ does not have jurisdiction to consider effects on property values when determining whether to approve or deny a permit application. Rule 30 TAC §330.53(b)(8) requires that the Commission consider the impact of a site upon a city,

community, group of property owners, or individuals in terms of compatibility of land use, zoning, community growth patterns, and other factors associated with the public interest. To assist the Commission in considering these issues, the applicant is required to include a description of zoning at the site and in the vicinity; character of the surrounding land uses within one mile of the proposed facility; growth trends and the directions of major development for the nearest community; proximity to residences, business establishments, and other uses within one mile, such as schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality; and information regarding all known wells within 500 feet of the site. The Executive Director has determined that the required information concerning land use was submitted in the application and that it was current at the time the application was declared technically complete. The land use information submitted does not justify the commission denying the application based on the landfill being an incompatible land use.

COMMENT 14 Facility Location

One commentor stated that the facility location in the draft permit is incorrect, but did not specify what information was incorrect.

RESPONSE 14

The location specified in the draft permit – approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290, in Travis County, Texas – was checked and verified to be accurate (representing the distance from the intersection of Giles Road and U.S. Highway 290 to the center of the facility).

COMMENT 15 Buffer Zone and Easements

Several commentors expressed concern that the buffer zone around the landfill is not adequate to prevent odors and runoff from affecting adjacent properties and roadways, nor is it adequate to allow flexibility to adapt to regulatory updates or deal with unanticipated emergencies. One commentor stated an opinion that the application does not comply with the rules because the buffer zone is not labeled on figures and that a perimeter access road is not shown, and that there is no discussion of easements in Part III of the application. Several commentors asked if Blue Goose Road is considered part of the buffer zone, and how that could be allowed.

RESPONSE 15

The buffer zone rule at 30 TAC §330.121(b) requires that a minimum separating distance of 50 feet be maintained between solid waste processing and disposal activities and the boundary of the site. The Site Operating Plan (SOP) acknowledges that requirement, and Attachment 1, Sheet 2 to Part III of the application shows a zone at least 50 feet wide between the permit boundary and the landfill footprint and other processing and disposal activities. The buffer zone is entirely within the landfill permit boundary on land owned by BFI and Giles Holdings, and does not include any part of Blue Goose Road or any other public right of way. Rule 30 TAC §330.121(b) requires that the buffer zone provide for safe passage for fire-fighting and other emergency vehicles. The placement of access roads is determined by the applicant based on design and operational considerations, and is not prescribed in rule. Rule 30 TAC §330.121(a)

establishes operating requirements for easements; §330.52(b)(4) and §330.53(b)(7) specify that easements should be documented in Parts I and II of the application. Easements at the BFI Sunset Farms Landfill are documented in a drawing in Section I.I in Part I of the application, which is referenced on figures in Section II.C of Part II of the application and in Figure 14B-1 in Attachment 14 to Part III of the application. The location of an underground utility trench, discussed in Section 2.6 of Attachment 14, is shown in Figure 14A-1. The application meets the requirements for easements and buffer zones, and it includes adequate provisions to control odors and runoff.

COMMENT 16 Ownership and Use of 54.13-acre Tract of Land Transferred from Giles Holdings to BFI

Several commentors asked what was the purpose of BFI's purchase of the 54.13-acre tract in the northeast quadrant of the site (also referred to as 54.1 acres and 54.119 acres in Section I.B-2 and I.J-3 in Part I of the application) from Giles Holdings, how the change of ownership affects commitments or agreements made with the City of Austin or Travis County, what part of the facility is located on the tract, what plans BFI may have for this part of the facility, and who has jurisdiction over the drainage area. One commentor noted the property owner affidavit for the 54.13 acres (in Section I.J-4 in Part I of the application) states that an affidavit will be filed with the county deed records advising that the land has been used for a solid waste facility, and asked if the 54.13 acres has been or will be part of disposal area.

RESPONSE 16.

The location of the 54.13-acre tract is shown in Figure I.F in Part I of the application. The reason for BFI's purchase of the tract is not stated in the application and is not required by the MSW rules. According to the application, the 54.13 acres is outside the landfill footprint and therefore not to be used for disposal. However, because the tract is within the permit boundary, the property owner is required by 30 TAC §330.52(b)(7) to include a property owner affidavit for the tract, acknowledging that the owner has a responsibility to file the specified affidavit with the county deed records. The portion of the 54.13-acre tract closer to the landfill is being used for a detention pond for runoff from the facility, and the portion adjacent to Blue Goose Road is used for maintaining the natural drainage through the site. The application does not indicate any other plans for the tract. Details regarding drainage are contained in Attachment 6 to Part III of the application.

The 54.13-acre tract is within the city limits and extraterritorial jurisdiction of the City of Austin, and within Travis County, and would need to comply with any drainage ordinances of those local governments. In addition, according to Section II.H in Part II of the application, several areas within the tract are considered jurisdictional wetlands that must be managed in accordance with rules administered by the U.S. Army Corps of Engineers (USACE). Section II.K of Part II contains a letter documenting the applicant's coordination with USACE. Any commitments or agreements made by BFI with the City of Austin or Travis County would need to be enforced by those entities.

COMMENT 17 Size of Facility and Visual Impact

Many commentors expressed concern about the height and size of the landfill after the proposed expansion, its appearance, and the visual impact it will have on the surrounding area, and the ability to screen operations from view. Several commentors expressed their wish that the sides

of the landfill facing the public be landscaped. Several commentors expressed concern that visual impact of the proposed height increase will deter visitors from their business and historical sites. One commentor asked how the expansion might be expressed in acres, and another asked if any part of the landfill would be deeper as a result of the proposed expansion.

RESPONSE 17

The TCEQ's rules include design requirements that apply to all sizes of landfills, but the rules do not set a maximum size limit for landfills.

The applicant has proposed in Section 28 of the Site Operating Plan (SOP), that parts of the landfill at low elevations and at natural ground level will be screened by landscaping in the northeast part of the site along Blue Goose Road. Waste deposited on elevated portions of the landfill will be screened by daily, intermediate, and final covers, described in the SOP and in the Final Closure Plan. The Executive Director has not determined that any additional screening should be required under 30 TAC §330.138.

The proposed expansion would add 10,630,000 cubic yards of landfill volume (including cover), on top of most of the existing landfill, which has a permitted disposal area (footprint) of about 251.5 acres. The proposed amendment will not change the footprint, and does not propose to deepen any cells (all cell excavation and liner construction will have been completed under the existing permit before the final decision on the proposed amendment).

COMMENT 18 Health Effects from Waste Buried at Site, and Emissions

Many commentors expressed concern that the landfill causes and will cause adverse health effects on the surrounding community, some requesting that a health impact study be performed before issuance of a permit for the facility. Several commentors expressed concern about hazardous waste that may have been buried at site of the BFI Sunset Farms Landfill and/or the adjacent landfill, and some stated that it needs to be removed. Some questioned how incoming waste is monitored and how BFI will ensure prohibited waste is not disposed of in the landfill. Others expressed concern that waste currently acceptable in an MSW landfill might turn out to be a big health risk in the future. One commentor expressed the opinion that because MSW landfills can accept some hazardous wastes (household hazardous waste, and hazardous waste from conditionally exempt small quantity generators [CESQGs]), the landfills, the leachate, and the air emissions should be classified as hazardous.

RESPONSE 18

The Executive Director determined that the proposed landfill was designed in compliance with the Texas Solid Waste Disposal Act (TSWDA), and with the MSW rules and regulations developed to protect human health and the environment. The MSW rules do not require health impact studies to be conducted for MSW landfill applications. Monitoring of groundwater for release of contaminants and monitoring for landfill gas emissions will be required while the facility is active and during the post-closure care period (30 years unless specified otherwise).

The TCEQ does not have any information indicating that hazardous waste (other than household hazardous waste, and hazardous waste from CESQGs) has been disposed at the site. The Site Operating Plan (Part IV of the application) contains the procedures that will be used to detect and prevent disposal of prohibited wastes.

Whether MSW landfills, the leachate, and resulting air emissions should be classified as hazardous is not relevant to whether this application complies with the commission's MSW landfill permitting rules. In accordance with Title 40 Code of Federal Regulations (CFR), Part 261, Section 261.4(b), leachate and gas condensate from a municipal solid waste landfill is excluded from regulation as a hazardous waste provided the leachate or gas condensate is not characteristically hazardous (that is, not ignitable, reactive, corrosive, or toxic). Air emissions from the landfill are regulated under federal rules in 40 CFR Part 60, Subpart WWW (Standards of Performance for Municipal Solid Waste Landfills), adopted by reference by the state, which require active gas collection and control (including reduction of non-methane organic compounds by 98 weight-percent or to less than 20 parts per million by volume), monitoring, and corrective action as needed to ensure compliance.

COMMENT 19 Restrictions on Types of Waste Accepted

One commentor suggested that the landfill should restrict acceptance of sludge and/or liquid wastes, industrial wastes, special wastes, contaminated soils, asbestos-containing materials, and prohibited wastes, and should install equipment to detect radioactive materials. The commentor also asked if the facility has ever received "dangerous material" during the last 26 years, and if so, the details regarding the case and the fate of the waste.

RESPONSE 19

According to the Part A application form in Part I of the application, and the Site Operating Plan (SOP) (Part IV of the application), the applicant proposes to continue to accept the wastes currently authorized, including municipal solid waste, regulated asbestos-containing material from municipal sources, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content, Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, and certain special wastes. The facility is not authorized and will not be authorized to accept prohibited wastes identified in 30 TAC §330.5(e), hazardous wastes (other than household hazardous waste and hazardous waste from conditionally exempt small quantity generators [CESQGs]), radioactive wastes, polychlorinated biphenyl (PCB) wastes, nonhazardous Class 1 industrial wastes (other than that considered Class 1 only because of asbestos content), or any other wastes not identified in the permit. The facility may accept sludge and liquid waste that has been solidified, and tested and determined not to contain free liquids before disposal. The SOP indicates that automated radiation detection equipment will be installed at each incoming waste scale to allow detection of radioactive materials. The commission's rules authorize MSW landfills to accept the types of waste that the applicant proposes to accept.

The Executive Director is not certain what materials the commentor would include in the definition of "dangerous material," however, as explained above, the facility is not authorized to accept regulated hazardous wastes, radioactive wastes, PCB wastes, or nonhazardous Class 1 industrial wastes, and the existing landfill has not reported receiving or disposing of such wastes.

COMMENT 20 Traffic and Routes to Site

Many commentors expressed concern regarding traffic to and from the facility, including truck traffic on back roads and bridges that are too narrow to allow safe passing, trucks exceeding speed limit and/or driving unsafely, deterioration of roads, illegal left turns out of the facility, and truck drivers not watching as they pull into or out of the facility. Several commentors stated

opinions that information on roads and traffic was insufficient, that access roads to the facility have not been fully identified by the applicant, or that the traffic study does not take into account upcoming highway construction projects. One commentor asked how much traffic will increase due to the proposed expansion and how the applicant will minimize the impact. Several commentors asked how BFI will ensure that trucks to and from the facility use the main access routes identified in the application and not alternate routes.

RESPONSE 20

The application includes information related to adequacy of access roads and coordination with the Texas Department of Transportation (TxDOT). Rule 30 TAC §330.53(b)(9) requires an applicant for a new permit or permit amendment to provide data, including availability and adequacy of roads that the applicant will use to access the site, volume of vehicular traffic on access roads within one mile of the proposed facility, and volume of traffic expected to be generated by the facility. The information is provided in Section II.E in Part II of the application. According to the Part A application form in Part I of the application, and the traffic study in Section II.E in Part II of the application, the traffic impact by the facility is estimated to be 1205 vehicles per day at the beginning of operation under the proposed amendment (equivalent to the number of vehicle trips per day in 2004), increasing to 1344 vehicles per day at the peak of operations. The application indicates that the primary access route to the facility is and will continue to be from U.S. Highway 290 via Giles Road (referred to as Giles Lane in the application). The applicant advised the Executive Director verbally that it restricts trucks operated by BFI to this route, but is not able to restrict the routes taken by other customers. The application includes information required by §330.51(b)(6)(C) that documents coordination with TxDOT for traffic and location restrictions. Section II.K of Part II of the application includes a letter dated October 31, 2006 from the TxDOT Austin District indicating no objections to the traffic study provided by the applicant. The application includes an adequate demonstration addressing transportation issues.

The applicant must also comply with any local city or county regulations that apply related to transportation. If garbage trucks or other vehicles are observed operating in an unsafe manner, or if trucks are traveling on roads in violation of restrictions, this information may be reported to local law enforcement agencies (police or sheriff). The TCEQ does not have jurisdiction to limit routes taken by garbage trucks. If roads need repair, this information should be reported to the city, county, or state road maintenance department.

COMMENT 21 Details in Site Operating Plan

One commentor stated that the equipment list in the Site Operating Plan (SOP) (Part IV of the application) does not match the waste acceptance rate; that the fire protection plan does not contain any information on working face size or calculations to show that six inches of soil cover can be applied to the working face within one hour; and that the discussion of easements and buffer zones in the SOP does not specifically describe them nor identify a drawing that shows them, and does not explain how the buffer zone will provide for safe passage for fire-fighting and other emergency vehicles nor reference perimeter access. Another commentor asked what measures will the applicant use to prevent fires in the old, pre-Subtitle D area of the landfill, and also stated that nothing in the application addresses how they are going to manage the potential increased impacts that would result from expansion.

RESPONSE 21

The commentor questioning the equipment list did not specify how the list does not match the waste acceptance rate. Rule 30 TAC §330.114(2) requires the applicant to describe the minimum number, size, type, and function of the equipment to be used. The applicant provided an equipment list in Figure 4 in the SOP (and also in Section I.L in Part I of the application), which shows the types and number of pieces of equipment that will be used for three ranges of waste acceptance rates, up to the maximum rate anticipated. The SOP includes information in Section 5 and in Appendix A regarding the working face size and calculations to show that six inches of soil cover can be applied to the working face within one hour.

The rule regarding easements and buffer zones, at 30 TAC §330.121, specifies requirements for easements and buffer zones, but does not specifically state that the SOP must describe the features nor explain how they meet the requirements. Easements are shown in a drawing in Section I.I in Part I of the application, which is referenced on figures in Section III.C (regarding land use) of Part II of the application and in Figure 14B-1 in Attachment 14 to Part III of the application; the location of an underground utility trench, discussed in Section 2.6 of Attachment 14, is shown in Figure 14A-1. The buffer zone for the landfill is shown on Attachment 1, Sheet-2 to Part.III, and is at least 50 feet wide between the permit boundary and the landfill footprint and other processing and disposal activities.

Fire protection in the old, pre-Subtitle D area of the landfill is provided by existing intermediate cover.

Procedures to control potential impacts from operation of the landfill are contained in the SOP. The SOP complies with the rules and operating the facility in accordance with these procedures should control impacts from the proposed expansion.

COMMENT 22 Odor and Air Quality

Many commentors stated that the facility has been and continues to be a source of noxious odors affecting people at their residences, businesses, schools, and public places, and that at times the odors are too unbearable to be able to be outside or to have windows open. Many expressed the concern that as the landfill grows the odor problem will worsen and lead to an extended period of odor releases as had occurred some years ago, which one commentor explained BFI battled and was barely able to control. Several commentors suggested that the odor management plan is insufficient given the historical odor problems, and that the applicant should be required to provide an odor management plan under the revised MSW rules (the 2006 Revisions).

Several commentors asked whether odors are caused by excessive amounts of leachate on the liner, or if they are escaping from the leachate collection system, or emanating from leachate recirculated on the working face. One commentor asked if odors are coming from trucks bringing in waste from distant collection points, and what is the most distant collection point from which waste is brought to the BFI Sunset Farms Landfill.

Some commentors expressed concern about the health effects of short term and long-term exposures to the odor-causing compounds and gaseous pollutants that may be emitted along with the odor.

Commentors also asked how gas releases are monitored; what is present in the on-site misters

that are used to combat odors; and what steps will BFI be required to take to minimize the effect on the air quality of the increased numbers of diesel trucks in combination with dust and landfill gases.

RESPONSE 22

The procedures for odor management specified in Section 15 of the Site Operating Plan (SOP) (Part IV of the application) provide adequate control of odors in accordance with 30 TAC §330.125(b), effective December 2, 2004. The 2006 Revisions moved the requirements for odor management to 30 TAC §330.149, but did not change the requirements. If the owner or operator follows these procedures, odors from the landfill should be adequately controlled. If persons have any complaints or concerns regarding operation of the facility, please contact the TCEQ Region 11 office in writing or in person at 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, or by telephone at (512)339-2929. Information on TCEQ procedures for investigating odor complaints is available on the TCEQ Internet site at www.tceq.state.tx.us/compliance/complaints/protocols/odor_protodef.html.

The Leachate and Contaminated Water Plan (Attachment 15 in Part III of the application) details the design and operating procedures for the leachate collection system (LCS). The Executive Director has determined that the design and plan meet the requirements of 30 TAC §330.56(o), §330.200(a)(2), and §330.201, and therefore does not expect excessive amounts of leachate to accumulate on the liner. The Executive Director does not expect gases to escape from the LCS because according to the Landfill Gas Management Plan (LGMP) (Attachment 14 to Part III of the application), the leachate collection system will be connected to the gas collection and control system at the cleanout risers for the LCS. The application does not explicitly state that the facility will or will not recirculate leachate, however, the applicant advised the Executive Director that the facility ceased recirculating leachate in late 2001, and does not intend to do so in the future. To clarify this issue, the Executive Director has revised the draft permit to add a Special Provision specifying that leachate and gas condensate shall not be recirculated.

The MSW rules do not require an applicant to specify waste collection points or service areas, and therefore the Executive Director does not know the most distant collection point contributing waste to the applicant's facility. However, all wastes must be managed in accordance with the odor control procedures specified in the SOP (immediate burial of particularly odorous wastes with other waste or soil), regardless of hauling distance. Rule 30 TAC §330.33(a) requires that waste hauling vehicles be maintained in a sanitary condition to preclude odors.

The MSW rules do not require health impact studies; however, if the proposed landfill is constructed and operated as shown in the application and as required by the regulations, the Executive Director expects human health and the environment to be protected now and in the future.

Section 3 of the LGMP specifies that gas releases or migration in the subsurface will be monitored by permanent gas monitoring probes that are or will be installed at the perimeter of the facility, as required by 30 TAC §330.56(n). In addition, Section 6 of the LGMP indicates that the facility is subject to federal air quality rules in 40 CFR Part 60, Subpart WWW (Standards of Performance for Municipal Solid Waste Landfills), which include requirements for monitoring emissions at the surface of the landfill.

Section 15 of the SOP describes where misters may be used to release odor-controlling

compounds. The MSW rules do not require that the application specify the composition of the odor-controlling compounds. However, material safety data sheets (MSDSs) were provided with a letter to the TCEQ dated April 6, 2006, from Associated Consulting Engineers, Inc. responding to comments on the permit modification to upgrade the SOP for the existing facility under MSW Permit No. 1447 (modification issued September 27, 2006). The MSDSs indicated no adverse effects are expected on human health or the environment.

This is an MSW landfill permit amendment application, and air quality issues are generally outside the scope of review for landfill applications. The facility and traffic emissions will continue to be subject to applicable air quality requirements. The TCEQ does not consider the effects on air quality from increased numbers of diesel trucks, alone or in combination with any other factors, in deciding whether to issue a landfill permit. However, according to the Part A application form in Part I of the application, and the traffic study in Section II.E in Part II of the application, the proposed expansion could result in an increase of approximately 239 vehicles per day (12 percent increase, from current 1205 vehicles per day to 1344 vehicles per day at the peak of operations), including waste hauling trucks and all other vehicles.

COMMENT 23 Operation of Working Face

Several commentors inquired about how often the facility operates more than one working face, and why, and if and how often the facility has diverted waste-carrying vehicles to other facilities when the working face was inaccessible due to surface water problems.

RESPONSE 23

TCEQ rules at 30 TAC §330.117 require that the unloading of solid waste be confined to as small an area as practical. The rule requires that the maximum size of the unloading area be specified in the Site Operating Plan (SOP), and that the number and types of unloading areas be identified. The proposed SOP complies with these requirements. The commission is not aware of how often the existing facility has operated more than one working face or how often the facility has diverted waste-carrying vehicles to other facilities when the working face was inaccessible.

COMMENT 24 Dust

Several commentors reported that dust from facility roads, soil stockpiles, and other sources drifts off site and onto neighboring properties, and have asked how the dust problems will be managed if an expansion is granted and activity at the site increases. One commentor asked what the health effects of dust particles are and what chemicals they might contain or carry. One commentor reported seeing what was thought to be smoke and assumed the facility was burning waste; other commentors reported seeing dust thick enough that it resembled smoke.

RESPONSE 24

Section 17 of the Site Operating Plan specifies procedures to control dust from facility roads as required by 30 TAC §330.127(b). Dust from other sources, such as soil stockpiles must not create a nuisance which is prohibited by §330.5(a)(2). Burning of solid waste is prohibited, except in very specific circumstances as outlined in §330.5(d). The MSW rules do not require health impact studies; therefore, the application does not contain information about health effects of dust from the existing or proposed facility. The Executive Director has determined that the

application complies with all applicable requirements regarding control of dust. If dust creates a nuisance, please report the problem to the TCEQ Region 11 office in writing or in person at 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, or by telephone at (512) 339 2929.

COMMENT 25 Operating Hours, Noise, and Vibrations

Several commentors expressed concern about the 24-hours-a-day, 7-days-a-week (24/7) operating hours of the existing and proposed facility, and the impact of noise and vibrations from landfill traffic and equipment, especially at night. Several commentors also expressed concern regarding bright lights used during nighttime operations that illuminate their own properties. Commentors expressed concern that the application does not address how these problems will be kept from worsening as the landfill height increases. Several commentors stated that the landfill should be completely closed at night and on weekends.

RESPONSE 25

BFI proposes to continue the 24/7 waste acceptance and operating hours of the existing facility. The commission is not aware of information to justify restricting the proposed operating hours. The commission's rules do not set specific limits on facility lighting or noise, but the facility is prohibited from causing a nuisance under 30 TAC §330.5(a)(2).

COMMENT 26 Tracking of Mud and Dirt onto Public Roadways

Several commentors reported that tracking of mud and dirt from the landfill onto public roadways has been a problem at the site, creating a nuisance as well as a driving hazard. One commentor suggested that the cause is that drivers of trash trucks are unwilling to take the time to wash their wheels. Several commentor noted that street sweepers clean the road in front of the facility, but that the sweeping does not remove all the dirt and is insufficient. They argue that the city is wasting tax dollars as sweepers run all day trying unsuccessfully to keep up with the problem. One commentor indicated that mud is also tracked onto U.S. Highway 290 and is not swept. One commentor expressed concern about transport of contaminants by vehicles.

RESPONSE 26

Section 17.2 in the Site Operating Plan (SOP) (Part IV of the application) identifies specific features and procedures proposed to control tracking of mud and dirt onto public roadways, including all-weather access roads (paved main access road and unpaved interior roads that use gravel or ground woody material). In addition, the SOP requires exiting vehicles to use a truck wheel wash facility near the entrance. The procedures also state that washing and/or sweeping will be used to remove mud deposited from trucks leaving the site. The Executive Director does not have any information to indicate whether the City of Austin is conducting street sweeping near the facility at the City's expense. BFI has proposed to provide a street sweeper, as indicated in Figure 4 of the SOP. The application includes adequate provisions to control tracking of mud and dirt onto public roadways.

COMMENT 27 Windblown Trash, Roadside Trash, and Illegal Dumping

Many commentors reported that the area around the landfill and routes to the landfill are littered with windblown trash on the ground and in fences and trees. Commentors observed trash on routes other than the primary access routes identified in the application and beyond the area subject to daily cleanup requirements. One commentor expressed concern that bags and other

windblown trash end up in pastures and endanger livestock that may accidentally ingest the trash, and are incorporated into bales of hay. Several commentors also reported that waste is spilled from trucks both on the way to the landfill and on the way out if they did not empty completely. One commentor reported getting flat tires from debris that has fallen off trucks. One commentor questioned whether the City of Austin spends tax dollars to clean up the windblown trash along the routes to the site. Several commentors reported that illegal dumping occurs in the area by people who have come when the landfill is closed or who find the disposal fee too high.

RESPONSE 27

Sections 10 and 13 of the Site Operating Plan provide procedures for control of windblown solid waste and litter and for control and cleanup of materials along the route to the site. BFI is responsible for picking up litter scattered throughout the site, along fences and access roads, at the gate, and along and within the right-of-way of public access roads serving the facility for a distance of two miles from the entrance (including any waste illegally dumped within the right-of-way). That clean up must occur at least once a day on the days the facility is in operation. BFI is responsible for the costs of the cleanup.

The Executive Director has determined that BFI's application complies with the requirements of 30 TAC §330.120 and §330.123. If the landfill is operated in accordance with the SOP, the Executive Director expects that windblown waste and materials along the route to the site will be adequately controlled and picked up. The TCEQ is not aware of whether the City of Austin spends tax dollars to clean up trash along routes to the site. If you have any complaints or concerns regarding operation of the facility, please contact the TCEQ Region 11 Office in writing or in person at 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, or by telephone at (512) 339-2929. If you observe or have information regarding illegal dumping, please contact the TCEQ Region 11 Office and city or county officials.

COMMENT 28 Scavenging Animals and Vectors

Several commentors expressed concern that the landfill provides food for or attracts vectors (insects, rodents, birds, or other animals or organisms capable of mechanically or biologically transferring a pathogen from one organism to another). Commentors also reported that scavenging animals such as coyotes pass through the residential neighborhood on the way to or from the landfill. They also complained about scavenging birds that roost on houses, power lines, and in trees in the neighborhood and at the nearby elementary school, and leave messy, potentially disease-ridden droppings on the ground.

RESPONSE 28

The procedures provided in Section 16 of the Site Operating Plan (SOP) for controlling on-site populations of disease vectors meet the requirements of 30 TAC §330.126. The procedures include proper compaction and application of daily cover, which should adequately control scavenging animals and vectors.

COMMENT 29 Liner and Leachate Collection System Design, Construction, and Stability

Several commentors expressed opinions that the Soil and Liner Quality Control Plan (SLQCP)

for the facility is not specific to the conditions at this site and that the Geology and Geotechnical Report contains no caveats regarding use of high-to-very-high plasticity materials available on site for liner and cover construction. They also expressed concern that the documents do not adequately demonstrate that recompacted soils will meet the permeability requirement of 10^{-7} cm/sec or less. One commentor stated that the slope stability analysis in Appendix 4G of Attachment 4 to Part III of the application was not done to industry standards and therefore flawed. Several commentors questioned whether the liner and leachate collection systems and existing waste would be stable under the increased weight of a vertical expansion. One commentor asked which landfill cells do not have double composite liners. One commentor asked if at sometime in the future we might learn that the material used for liners is hazardous or that it will deteriorate and no longer provide groundwater protection.

RESPONSE 29

The SLQCP provided in Attachment 10 to Part III of the application provides specifications for the liner system, as well as construction and testing procedures to ensure the liner is built to those specifications. Properties of the materials available on site are discussed in Section 3.2 and Appendix 4E of Attachment 4 (Geology Report) to Part III of the application. The applicant has used those materials in the past to construct liners that meet specifications. The SLQCP meets the requirements of 30 TAC §330.205.

The comment on slope stability analysis did not identify what was not done to industry standard. The methods used and documented in the application are generally accepted by the industry. Analyses and discussion provided in Sections 3.6 and 3.7, and Appendices 4G and 4H of Attachment 4 demonstrate that the liner and waste will be stable under the increased weight of a vertical expansion; analyses and discussion in Appendix 15-C of Attachment 15 (Leachate and Contaminated Water Plan) to Part III of the application demonstrate that the leachate collection system pipes have sufficient structural stability.

None of the liners at the BFI Sunset Farms Landfill are a double composite liner. The rule regarding liner design for MSW landfills, 30 TAC §330.200, does not require double composite liners. Section 4 of Attachment 15 discusses the chemical stability of the synthetic liner components and their resistance to attack by chemicals that may be in leachate and establishes that the materials are suitable choices for construction of containment systems.

COMMENT 30 Vertical Expansion over Pre-Subtitle D Waste Areas

Several commentors expressed concern about how the facility will manage leachate in areas of the expansion that will overlie older, pre-Subtitle D waste areas that are not lined and/or do not have a leachate collection system.

RESPONSE 30

The permit amendment application for BFI Sunset Farms Landfill was declared administratively complete on January 31, 2006, and processed under the MSW rules in effect at that time. Those rules do not contain a requirement for placing a liner and leachate collection system (LCS) over pre-Subtitle D waste areas that are to be vertically expanded. The requirement for a liner and LCS over pre-Subtitle D waste areas was added to the revised MSW rules that became effective March 27, 2006 (the 2006 Revisions) and does not apply to this application.

COMMENT 31 Daily Cover

Several commentors raised issues related to the alternative daily cover (ADC). They asked why BFI used ADC in the past instead of using dirt from areas they are excavating now and stockpiling, whether the facility is currently permitted to use any ADC, and whether the amendment application proposes to use ADC. One commenter advised that despite statements by the applicant's engineer that the site has not used ADC in more than five years, annual reports filed by BFI for the past five years indicate that the facility did use "tire pieces/chips and ground woody waste" as ADC. Several commentors expressed concern that it was unclear whether ADC would be authorized by the permit amendment, because of references to ADC in Standard Permit Condition VIII.I in the draft permit, and statements in Section 15 of the narrative to Part III of the application. Another commentor expressed the belief that the facility does not apply daily cover soil in the winter when it appears there will be a freeze. Commentors also expressed concern that soil balance calculations in Appendix III-D to Part III indicate a deficit of soil and questioned what BFI will do if it does not have enough dirt for daily cover.

RESPONSE 31

Section 23.1 of the Site Operating Plan (SOP) in Part IV of the application indicates that the facility will apply daily cover soil at least once per day, in accordance with 30 TAC §330.133(a). Section 23.3 of the SOP states that the use of ADC material is not proposed and that no ADC materials are currently approved for the site. The facility was authorized by its permit in the past to use ADC instead of soil as daily cover, but BFI apparently ceased using ADC several years ago because of operational issues. Standard Permit Condition VIII.I has been revised in the draft permit to delete the reference to ADC. The Executive Director is not aware of any occasion that the facility did not apply daily cover (or ADC) because of freezing weather conditions.

The soil balance calculations provide information and help the applicant plan for soil needs. The MSW rules do not require that all construction materials be available on site. The applicant will be responsible for obtaining the necessary materials, whether available on site or from another source. Attachment 8 (Cost Estimate for Closure and Post-Closure Care) in Part III of the application includes provisions for purchase of soil.

COMMENT 32 Soil Stockpiles

Several commentors inquired about soil stockpiles on top of filled areas of the facility. They asked what is the source of the material in the stockpiles, whether the permit allows stockpiling, whether the tops of the stockpiles extend above the permitted final elevations for the landfill, and how the material will be used. Commentors also reported that the stockpiles are a source of dust and sediment that create a nuisance and asked how long the stockpiles would remain.

RESPONSE 32

The soil in the stockpiles on top of filled areas of the facility is from excavations on the site. The tops of the stockpiles extend above the final contours specified in the current permit, and therefore must be moved and/or regraded according to the existing final closure plan if the pending application is not granted. The Executive Director anticipates that the facility will use most, or all of the soil in the stockpiles for daily, intermediate, and final cover, and/or other activities that require soil. The facility will be required to follow the erosion and sediment control procedures for stockpiles, described in Section 3.1 in Appendix ATT6-A of Attachment 6

(Groundwater and Surface Water Protection Plan) to Part III of the application while the soil stockpiles are in place. The facility will also be required to implement, within one year of issuance of this permit, erosion and sediment controls that comply with the March 2006 Revisions of 30 TAC Chapter 330 rules relating to erosional stability of top and side slopes during all phases of landfill operation. If dust or sediment eroded from the stockpiles creates a nuisance, please report the problem to the TCEQ Region 11 office in writing or in person at 2800 South IH 35, Suite 100, Austin, Texas 78704 5700, or by telephone at (512) 339-2929.

COMMENT 33 Drainage and Erosion Controls

Many commentors expressed concern that drainage and erosion controls at the facility are presently inadequate, and that erosion, runoff, and sedimentation problems will worsen if the facility expands and constructs longer, steeper slopes. Commentors reported various problems, including: erosion of creek beds and damage to roads, fences, and ponds on adjacent property; exposure of trash due to erosion of cover; overflow of detention ponds and ditches after heavy rains; deposition of sediment on roads; and erosion of soil stockpiles. One commentor asked what specific procedures will be required for "control" of run-on and runoff, and what does "control" mean. Another commentor asked what is the definition of "protection" in the Groundwater and Surface Water Protection Plan. Several commentors stated that the applicant should be required to follow the requirements of the revised MSW rules that became effective March 27, 2006, to provide erosion and sediment control during all phases of landfill development, and should be required to install drainage and erosion controls and detention ponds now, rather than at closure. One commentor stated that the drainage calculations do not appear to demonstrate that the proposed controls will maintain low non-erodible velocities, minimize soil erosion losses, and provide long-term, low maintenance geotechnical stability to the final cover. The commentor also expressed concern that the demonstration of "no significant alteration" of natural drainage patterns compared the conditions for the proposed facility with the conditions for the existing facility existing rather than the conditions before the site was developed into a landfill.

RESPONSE 33

TCEQ rules at 30 TAC §330.55(b)(2) require the applicant to design, construct, and maintain a run-on control system capable of preventing flow into the active portion of the landfill during the peak discharge from at least a 25-year storm. Rule 30 TAC §330.55(b)(3) requires that the owner or operator design, construct, and maintain a runoff management system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm. Rule 30 TAC §330.55(b)(4) requires that dikes, drainage structures, or diversion channels sized and graded to handle the design runoff be provided, and that the slopes of the sides and toe be graded in such a manner as to minimize the potential for erosion. In addition, 30 TAC §330.55(b)(5)(E) requires that the proposed surface water protection and erosion control practices maintain low non-erodible velocities, minimize soil erosion losses below permissible levels, and provide long-term, low-maintenance geotechnical stability to the final cover. "Control" of run-on and runoff means to meet the requirements of 30 TAC §330.55(b)(2) and (3), described above. "Protection" of surface water means to meet the requirements of 30 TAC §330.55(b)(5)(E) as stated above. Attachment 6 (Groundwater and Surface Water Protection Plan) to Part III of the application specifies designs for control structures that, according to calculations presented in Attachment 6, will perform as required by the rules. The plan includes an enlarged detention pond to mitigate the expected increase in peak stormwater flow due the

vertical expansion. The application complies with all applicable requirements regarding drainage and erosion controls.

The Executive Director declared the permit amendment application for BFI Sunset Farms Landfill administratively complete on January 31, 2006, and processed the application under the MSW rules in effect at that time. The applicant will be required to submit a separate application to modify the permit (within one year after the commission's decision on the amendment application has become final and appealable) to incorporate design features that will provide effective erosional stability during all phases of landfill operation, closure, and post-closure care, in accordance with the revised MSW rules that became effective March 27, 2006.

The comment regarding drainage calculations did not explain what aspect of the calculations did not appear to demonstrate that the proposed controls will perform as required by the rules; the Executive Director determined that the drainage calculations and designs meet the requirements of the rules. The analysis and demonstration of "no significant alteration" of natural drainage patterns was conducted in accordance with TCEQ rules and guidance (*Guidelines for Preparing a Surface Water Drainage Report for a Municipal Solid Waste Facility*, August 2006), which advises that for expansions or modifications of existing facilities, the appropriate comparison should be between the currently permitted site closure condition and the proposed post development condition at closure.

COMMENT 34 Cover Inspection and Repair

Several commentors noted that the Site Operating Plan proposes that cover inspections will be conducted the next weekday operating day after measurable rainfall occurs, even though the landfill is also proposing to be open on weekends; and that the timeline for repair (within five days of detection) is not consistently stated.

RESPONSE 34

The rule regarding erosion of cover, 30 TAC §330.133(f), does not specify that cover must be inspected the next day after a rain. Inspecting cover on the next weekday operating day after a measurable rainfall occurs is sufficiently protective. However, the Executive Director has revised the draft permit to clarify statements regarding the time by which erosion must be repaired, by adding a Special Provision specifying that the permittee shall repair eroded cover within 5 days of detection unless the commission's regional office approves otherwise.

COMMENT 35 Leachate Management and Contaminated Water Management

One commentor asked where the leachate collection system (LCS) is located in Subtitle D cells; how the applicant will keep leachate from Subtitle D cells (which have LCSs) out of pre-Subtitle D cells (which do not have LCSs); how the applicant will keep leachate depths below 12 inches (30 centimeters) above the liner and out of waste; and how the applicant is ensuring that the liner system is built with a slope that will promote drainage of leachate. Several commentors expressed concern that the Site Operating Plan (SOP) contains no provisions for leachate management and no provisions to prohibit leachate recirculation, and that the application did not provide required details on storage, treatment, and disposal of contaminated water. One commentor suggested that the landfill should have installed cutoff drains to prevent infiltration of groundwater into waste cells. Another commentor stated that the LCS may not work adequately because of "problems related to the sump."

RESPONSE 35

The LCS is located on the bottom and side slopes of the Subtitle D landfill cells. The LCS design and operation are described in Attachment 15 (Leachate and Contaminated Water Plan) to Part III of the application, and details for the LCS are shown in Figures 15-1 through 15-4 in Attachment 15. According to Figure 15-1, the Subtitle D cells have been or will be excavated to greater depths than the pre-Subtitle D cells, which is expected to prevent leachate in Subtitle D cells from draining to pre-Subtitle D cells. According to the leachate generation analysis described in Section 2.1 of Attachment 15, and detailed in Appendix 15-A, the LCS is designed to maintain leachate depths below 12 inches (30 centimeters) above the liner. The proposed Subtitle D cells are designed with 3:1 side slopes (1 foot of vertical rise for each 3 feet of horizontal run) and 2 percent bottom slopes (2 feet of vertical drop for each 100 feet of horizontal run) that is typical for landfills and is considered sufficient to promote leachate drainage.

Procedures for managing leachate and contaminated water are provided in Section 5 of Attachment 15 (Leachate and Contaminated Water Plan) to Part III of the application. Section 5.5 lists leachate treatment and disposal options, which do not include recirculation. The applicant advised the Executive Director that leachate has not been recirculated at the facility since late 2001, and that although the application does not state it clearly, BFI does not intend to recirculate leachate in the future. The Executive Director has therefore added a Special Permit Provision to clarify that leachate and gas condensate shall not be recirculated.

According to Appendix 4F (Construction Below the Groundwater Table) in Attachment 4 to Part III of the application, the design for the cells remaining to be constructed at the time the application was prepared include a temporary dewatering drain to ensure stability of the liner until it is weighed down by protective cover and waste. Older Subtitle D cells also included temporary dewatering drains in their designs. After dewatering ceases, the landfill liner system and the weight of waste as ballast will provide sufficient resistance to groundwater hydrostatic pressure to prevent infiltration of groundwater into waste cells. Appendix 15-G of Attachment 15 provides calculations of the amount of groundwater that may seep through the liner, in case of liner defect, and adequacy of the leachate collection system to handle any groundwater inflow through such defect. Section 4.4 of Attachment 4 (Geology and Geotechnical Report) indicates that the permeability of the weathered Taylor Marl stratum (the groundwater-bearing unit at the site) is low (in the range of 10^{-5} to 10^{-7} cm/sec), which will also limit the potential for infiltration.

The comment regarding performance of the LCS due to problems related to the sump did not explain what problems were perceived or how it may affect the LCS. The LCS design meets the requirements of the rules.

COMMENT 36 Contaminated Water Runoff

Several commentors stated that the existing facility has had difficulty preventing contaminated surface water from running off the site, and expressed concern that the problem will worsen if the landfill expands. Commentors expressed concern about management of stormwater that comes in contact with waste and with daily cover, and stated that the application does not adequately demonstrate that the facility meets the criteria to ensure runoff from daily cover is not contaminated. Several commentors stated that surface water quality is not tested adequately before it leaves the site and is not tested off site, and expressed concern that water in the

detention ponds is contaminated and not fit for birds.

RESPONSE 36

Section 29 of the Site Operating Plan (SOP) in Part IV of the application refers to procedures for contaminated water management and surface water discharges in Attachments 6 (Groundwater and Surface Water Protection Plan) and 15 (Leachate and Contaminated Water Plan) to Part III of the application. Section 2.2 of Attachment 6 identifies the procedures the applicant will follow to minimize the generation of contaminated water, which include the use of diversion berms to prevent surface water from running onto the working face and separation berms to contain water that does contact waste. Section 5.6 of Attachment 15 describes how contaminated water will be managed. According to 30 TAC §330.56(o)(1), contaminated water is water which has come into contact with waste, leachate or gas condensate. Runoff from areas that have intact daily cover is not considered as having come into contact with the working face or leachate. Section 23.6 of the SOP describes how daily cover will be maintained. Surface water quality testing requirements and discharge limits are established by a separate stormwater permit issued in accordance with the Texas Pollutant Discharge Elimination System (TPDES), and an associated Storm Water Pollution Prevention Plan. All discharges of stormwater must be in accordance with TPDES requirements; if unauthorized discharges from the landfill occur, the permittee will be subject to enforcement. Section 5.6 of Attachment 15 indicates that contaminated water will be stored in tanks or lined ponds until treated and/or disposed in accordance with TPDES requirements. Stormwater detention ponds should only contain stormwater that is uncontaminated or has been treated in accordance with TPDES requirements.

The application meets the requirements of 30 TAC §330.55(b)(6), §330.56(o), and §330.139 regarding contaminated water management. The off-site discharge of contaminated water should be prevented if the facility is constructed and operated as proposed.

COMMENT 37 Final Cover Design

Several commentors expressed opinions that the final cover system design may not meet the requirements of the rules, suggesting that the application does not address slope stability; and that the vegetative layer soil is not thick enough to support permanent vegetation, particularly through hot and dry summers. One commentor expressed concern that Figures 6-16 and 6-17 in the Groundwater and Surface Water Protection Plan (Attachment 6 to Part III of the application) did not show or otherwise indicate that geomembrane (GM) in the final cover system extends beneath the drainage downchutes, and that the thickness of the GM is variously stated to be 20, 40, or 60 mil high density polyethylene.

RESPONSE 37

Section 3.6 of Attachment 4 (Geology and Geotechnical report) to Part III of the application describes the slope stability analysis conducted for the facility, which includes analysis of the final cover slope. Section 2.1 of Attachment 12 (Final Closure Plan) to Part III indicates two options for the final cover system; both will have a six-inch top soil layer directly overlying a 12-inch erosion layer. The combined thickness of 18 inches is expected to provide sufficient moisture storage capacity and rooting depth to support vegetation.

Figures 6-16 and 6-17 in the application show that the GM in the final cover system extends beneath the drainage downchutes and specifies a thickness of 40 mils. Attachment 12 specifies

that the GM will be 40-mil LLDPE (linear low density polyethylene).

COMMENT 38 Subsurface Investigation and Groundwater Monitoring

Several commentors expressed opinions that the subsurface investigation was not performed “up to the standard of care, nor seemingly regulatory requirements,” that cross sections do not depict generalized strata, and that contaminant pathways at the site and from the neighboring Waste Management site have not been adequately discussed. Several commentors expressed concern regarding potential migration of contaminants from industrial or hazardous waste disposal areas at the adjacent Waste Management facility, and asked whether BFI will be required to test for constituents in Appendix IX to 40 CFR Part 264 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities).

Commentors questioned whether the groundwater monitoring system is adequately designed to detect a release, whether monitor wells are to be added, and whether the applicant is proposing to add to the “contamination attenuation zone.” One commentor questioned the timing of installation of the current Subtitle D groundwater monitoring system.

Several commentors inquired whether contaminants have been detected in groundwater at the site, and what plans exist to remediate contamination. One commentor expressed concern that groundwater might be infiltrating pre-Subtitle D waste cells that do not have leachate collection systems. Several commentors expressed concern that contaminated surface water is infiltrating and contaminating groundwater, and one commentor stated that the landfill is impacting drinking water in her residence because the water has the same bad smell as the landfill.

RESPONSE 38

The comment that the subsurface investigation was not performed “up to the standard of care, nor seemingly regulatory requirements” did not explain what aspect of the investigation or documentation the commentor believed was not up to standards. The generalized strata at the facility, consisting of unweathered Taylor Marl overlain by weathered Taylor Marl, is described in Attachment 4 (Geology and Geotechnical Report) to Part III of the application and is depicted on cross sections provided in Appendix 4C of Attachment 4. Analysis of contaminant pathways is provided in Section 4.5.3 of Attachment 4, and is based on site-specific geologic and hydrogeologic data documented in Attachment 4 which includes groundwater potentiometric surface maps that illustrate groundwater flow directions. The maps indicate that the groundwater generally flows toward (rather than from) the Waste Management facility to the south. The facility will not be required to monitor groundwater for constituents in Appendix IX to 40 CFR Part 264. The facility will conduct groundwater monitoring in accordance with 30 TAC §§330.231-235, which includes detection monitoring for constituents in Appendix I to 40 CFR Part 258 (Criteria for Municipal Solid Waste Landfills). If assessment monitoring is triggered, the facility will monitor at least once for constituents in Appendix II to 40 CFR Part 258, which contains most or all of the constituents in Appendix IX to 40 CFR Part 264. If an initial assessment event does not detect Appendix II constituents that are not also in Appendix I, the applicant may request to continue assessment monitoring for Appendix I constituents only.

The groundwater monitoring system design is based on the information from the subsurface geologic and hydrogeologic investigation and the analysis of contaminant pathways documented in Attachment 4 to Part III of the application. The application proposes to retain 15 of 17 existing groundwater monitor wells and add 17 new groundwater monitor wells, for a total of 32

monitor wells. The spacing of the proposed wells complies with the 600-foot spacing requirement in the revised MSW rules that became effective March 27, 2006. The existing and new wells will be along approximately the same point of compliance (POC) as for the existing facility; therefore, the zone between the landfill and POC in which contaminants might attenuate would not be changed by the proposed amendment.

The groundwater monitoring system at the BFI Sunset Farms Landfill originally consisted of 14 monitor wells installed in 1981, which were replaced by 17 monitor wells in 1998. A brief history of the groundwater monitoring system at the BFI Sunset Farms Landfill is described in Section 1.3 of Attachment 5 (Groundwater Characterization Report) to Part III of the application. The Executive Director provides the following additional information from TCEQ files:

- In a letter dated November 19, 1993, the Executive Director raised concerns regarding the construction of the monitor wells in the original groundwater monitoring system;
- In a letter dated January 7, 1994, BFI advised that it would replace the monitor wells;
- In a letter dated August 9, 1994, BFI further advised that it would do additional groundwater characterization at the facility;
- In a letter dated October 17, 1994, BFI certified pursuant to 30 TAC §330.231 that the landfill will be in compliance with groundwater monitoring requirements;
- The Executive Director acknowledged that certification in a letter dated October 18, 1994, and advised that due to the large number of permit modifications received from facilities upgrading to Subtitle D standards, the review of the certification would be delayed;
- In a letter dated March 9, 1995, the Executive Director provided a review of the certification and requested additional information;
- BFI provided additional information in a letter dated May 2, 1996, and further information in a letter dated December 18, 1996;
- In a letter dated March 31, 1998, the Executive Director requested that BFI address several items further;
- BFI provided additional information in a letter dated May 22, 1998; and
- the Executive Director approved the groundwater monitoring system design in a letter dated July 15, 1998.

The installation of wells for the Subtitle D groundwater monitoring system was completed in October 1998. The old monitoring system was retained and continued to be monitored in the interim while the Subtitle D monitoring system design was under review; the last monitoring of the old system occurred in July 1998, and the first monitoring of the new system in December 1998.

The October 2005 groundwater monitoring event detected 1,1-dichloroethane (DCE), a volatile organic compound (VOC), at a concentration of 8.2 micrograms/liter ($\mu\text{g/L}$) in monitor well MW-30 (near the southwest corner of the site). The constituent was detected at 7 $\mu\text{g/L}$ during a verification resampling event in January 2006, triggering assessment monitoring for the well.

The initial assessment event for MW-30 was conducted at the next semiannual monitoring event, in April 2006, and included sampling and analysis for Appendix II constituents. DCE was not detected above the reporting limit of 5 µg/L during that event, and no other Appendix II constituents that are not also in Appendix I were detected, except total barium and nickel. In a letter dated August 8, 2006, the Executive Director approved a request by BFI to continue assessment monitoring of MW-30 for Appendix I constituents and total barium and total nickel. During the September 2006 event, DCE, total barium, and total nickel were below reporting limits. During the next semiannual event, in March 2007, DCE was again detected at 7.8 µg/L. In accordance with 30 TAC §330.235(e), the well will remain in assessment monitoring until the concentrations of all assessment constituents are shown to be at or below background. The detection of any assessment constituent at statistically significant levels above a groundwater protection standard (GWPS) triggers notifications, investigation, and potentially corrective action. The Texas Risk Reduction Program, Tier 1 Protective Concentration Level for DCE, for groundwater ingestion (the strictest GWPS), is 4,900 µg/L. Therefore, no further investigation or corrective action is required at this time. No other contaminants have been verified in facility groundwater monitor wells. Statistically significant changes were identified in the past for arsenic in monitor well MW-17, barium in monitor well PZ-21B, and selenium in monitor well MW-26, but all were demonstrated to be due to natural variation in groundwater quality.

Groundwater may be infiltrating pre-Subtitle D waste cells that do not have leachate collection systems. However, the pre-Subtitle D liner system together with the low permeability of the groundwater-bearing unit at the site (weathered Taylor Marl, in the range of 10^{-5} to 10^{-7} cm/sec) is expected to limit infiltration.

It does not appear that contaminated surface water is infiltrating and contaminating groundwater, because the groundwater monitoring system at the facility has not detected groundwater contamination except for the compound DCE in monitor well MW-30. The DCE in monitor well MW-30 is believed to have been carried from the landfill by landfill gas migrating in the subsurface (see the response to comments regarding landfill gas management for more information regarding gas migration).

The commentor who stated that water in the house smelled bad did not indicate whether the water is from a well or a municipal water system. In either case, it is unlikely the smell in the water is caused by the landfill because the aquifers that could yield enough water to a well for domestic purposes in the area of the landfill are separated from the landfill by hundreds of feet of low permeability strata, and because municipal water systems are enclosed in tanks and pipes and pressurized, which would prevent inflow of contaminants into drinking water.

The subsurface investigation and proposed groundwater monitoring system design meet the requirements of 30 TAC §330.56(d) and (e).

COMMENT 39 Landfill Gas Management

Several commentors inquired about the regulations governing landfill gas control and about how gas releases are detected. Several commentors expressed concern that landfill gas control at the facility is inadequate, and they were concerned that odor problems and subsurface gas migration will worsen if the landfill expands. Commentors stated that the facility is unlikely to be able to capture all of the landfill gas due to underground seepage off site, and that when soil dries out, large cracks form that can bleed toxic gases. Several commentors expressed concern that gas

monitoring probes along the common boundary with the Waste Management facility had been removed, and that as a result the monitoring system is not protective.

One commentator inquired about how many times landfill gas concentrations have exceeded action levels at the facility, and whether the TCEQ has studied health effects of landfill gas on populations surrounding landfills. One commentator questioned whether the existing gas collection and control system would be stable under the increased weight of the vertical expansion.

Several commentators asked about the ownership, operation, and responsible party for the landfill gas to energy (LFGTE) facility, including questions about quantities of methane produced, efficiency of energy recovery, emissions monitoring/testing, and plans for expansion of the facility.

RESPONSE 39

Landfill gas consists mainly of methane and carbon dioxide with small amounts of nitrogen, oxygen, hydrogen, and non-methane organic compounds (NMOC). Regulations in 30 TAC §330.56(n) and §330.130 require control of landfill gas to prevent creation of explosive hazards from migration and accumulation of methane. Regulations in 40 CFR Part 60, Subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) require control of landfill gas to prevent emission of hazardous air pollutants (non-methane organic compounds). Subsurface gas migration and surface emissions are controlled by containment systems (liners and covers) and by an active gas collection and control system (GCCS) which applies a vacuum to the landfill through gas extraction wells installed in waste. Section 3 of the Landfill Gas Management Plan (LGMP) (Attachment 14 to Part III of the application), details procedures for quarterly monitoring of permanent gas probes around the perimeter of the facility in accordance with 30 TAC §330.56(n) and §330.130 to detect potential subsurface gas migration. BFI proposes to add five probes along the common boundary with the Waste Management facility, restoring probes removed during earlier permit actions. The locations for the proposed probes are shown in Figure 14A-1 in the LGMP. Sections 6.1 and 6.3 of the LGMP explain that gas collected by the GCCS will be routed to the on site LFGTE facility, and excess gas burned in a flare. Operating requirements for the GCCS, and testing requirements and emission limits for the landfill and flare are established by separate air permits referenced in Sections 6.1 and 6.3 of the LGMP.

Methane was detected above the action level of 5 percent methane by volume in gas monitoring probe GMP-13 (near the southwest corner of the facility) in April 1999 (8 percent methane). Following the April 1999 detection, the facility expanded the GCCS into that area of the landfill, which apparently did not yet have gas extraction wells. Methane was detected above the action level in GMP-12 (near the southwest corner of the facility, along the boundary with the Waste Management facility to the south) in January 2000 (24 percent methane). The facility has not reported exceeding a methane action level since then. Section 6 of the LGMP describes procedures for maintaining the GCCS, including addition and replacement of wells as waste disposal operations proceed. If a component of the GCCS were to fail under the weight of the proposed expansion, the facility would be required to replace it as needed to comply with landfill gas regulations and provisions of the permit.

The application does not propose to expand the LFGTE facility. The LFGTE facility is operated

by Gas Recovery Systems LLC, the responsible party, under MSW Registration No. 48000. The monitoring requirements and emissions limits for the LFGTE are specified in the separate air permits referenced in Sections 6.1 and 6.3 of the LGMP. The quantities of methane produced by the landfill and converted to energy are stated by the LFGTE operator in annual reports for Registration 48000. The reports are available in the TCEQ Central File Room, Building E, Room 103, 12100 Park 35 Circle, Austin, Texas 78753, telephone (512) 239-2900. The efficiency of the LFGTE operation is not specified and is not required to be reported.

The MSW rules do not require health impact studies, and therefore the application does not contain information about health effects of landfill gas from the existing or proposed facility. The provisions and procedures for landfill gas management specified in the LGMP meet the requirements of 30 TAC §330.56(n) and §330.130 and are expected to control releases of gas and odors from the landfill.

COMMENT 40 Wetlands, Habitat, and Endangered Species Protection

Several commentors expressed concern regarding the condition of the wetland/pond area, which is a habitat for waterfowl in the northeast corner of the site. One commentor suggested that the applicant was allowed to destroy wetlands without a federal permit or mitigation.

Several commentors expressed concern about leachate leaking into the nearby creeks and harming endangered species, about habitat destruction in general, and that the area has in the past been a habitat for owls. One commentor stated that the owls are gone and that dead birds are found in the area.

RESPONSE 40

Section II.H (Floodplains & Wetlands) in Part II of the application documents that BFI modified the waterway in the northeast part of the site to relocate a floodplain. The work was completed in July 2005, and revegetation and landscaping efforts were underway at the time this application was submitted. According to Section II.H, several areas within the tract are considered wetlands. According to Section II.J of the application, the wetlands will not be disturbed. Section II.K contains a letter from the U.S. Army Corps of Engineers dated February 6, 2007, indicating that the activities proposed in the application do not involve discharge of dredged or fill material into waters of the United States, including wetlands, and therefore a Section 404 permit under the federal Clean Water Act is not required.

The BFI Sunset Farms Landfill employs a groundwater monitoring system designed to detect releases from the landfill at the point of compliance, before any potential groundwater contamination could leave the site. To date, groundwater contamination has been detected at trace levels in one monitor well (see the response to comments regarding subsurface investigation and groundwater monitoring for more information). BFI proposes to provide adequate protection from contaminated groundwater migrating off site and discharging into area creeks by design and operation of the monitoring system and by the low permeability of the weathered Taylor Marl (the groundwater-bearing unit at the site that is monitored).

TCEQ rules at 30 TAC §330.51(b)(8), §330.53(b)(13), §330.55(b)(9), and §330.129 require that the application include information about endangered or threatened species and habitat. Section II.J in Part II of the application contains a habitat review that concludes the site contains marginal habitat for the Texas horned lizard, but not any other state or federal listed threatened or endangered species. As required by 30 TAC §330.129, the habitat review includes a Texas

horned lizard management plan detailing procedures for identifying the lizard and relocating any individuals that are found, as well as for conducting land clearing in a manner to minimize harm to any Texas horned lizards that may be present. Section II.K of the application contains letters dated November 11, 2005, documenting communication with the Texas Parks and Wildlife Department and the U.S. Fish and Wildlife Service regarding threatened and endangered species, with responses from those agencies indicating they expect no adverse impacts.

COMMENT 41 Financial Assurance

One commentor stated that the facility does not have adequate financial assurance should a release occur.

RESPONSE 41

TCEQ rules at 30 TAC §330.284 require that a municipal solid waste landfill unit required to undertake a groundwater corrective action program establish financial assurance to cover the cost of hiring a third party to perform the corrective action. The site currently is not required to undertake a groundwater corrective action; therefore a cost estimate and financial assurance for corrective action are not required. If at some time groundwater corrective action is required, the facility will be required to submit a permit modification to incorporate the cost estimate and to provide financial assurance. BFI has provided financial assurance to close the existing facility and has proposed to provide financial assurance to close the proposed facility in compliance with 30 TAC §330.281.

COMMENT 42 Recycling

Several commentors expressed concern that the application does not propose recycling or composting.

RESPONSE 42

The TCEQ encourages source reduction, reuse, and recycling; however, recycling is not a requirement for a landfill permit.

COMMENT 43 Post-Closure Care, and Use of Land After Closure

Several commentors inquired about what plans the applicant has for using the land after the landfill closes. One commentor expressed concern about landfill gas after the landfill closes.

RESPONSE 43

Attachment 12 (Final Closure Plan) to Part III of the application does not indicate that either the applicant or owner has any plans for use of the land after the landfill closes. Use of the land is restricted according to the provisions of 30 TAC §330.255 (relating to Post-Closure Land Use). The owner or operator must submit any plans for proposed construction activities or structural improvements on a closed MSWLF unit to the Executive Director for review and approval. If the permit is revoked after the end of the post-closure care period (nominally 30 years after closure), use of the land will be restricted according to the provisions of 30 TAC Chapter 330, Subchapter T (Use of Land Over Closed Municipal Solid Waste Landfills). The owner or operator is required by 30 TAC §330.254(b)(2) to continue monitoring programs, including landfill gas monitoring, during the post-closure care maintenance period.

COMMENT 44. Comments by Applicant

The applicant, BFI Waste Systems of North America, Inc., commented on the draft permit, stating that: (1) the cover page misidentifies Giles Holdings, L.P. as a co-applicant; (2) Section III.D incorrectly represents waste acceptance rates; (3) Section IV.H should be revised to include the word "significant" in the phrase "any *significant* increase in bird activity"; and (4) Section VIII.D, referring to preconstruction meetings should be deleted, because the proposed facility will neither be a new facility or a lateral expansion.

RESPONSE 44

The Executive Director has revised the cover page of the draft permit to identify the applicant, BFI Waste Systems of North America, Inc., as the sole permittee, and to identify BFI Waste Systems of North America, Inc., and Giles Holdings, L.P., together as property owners, reflecting the information submitted on the Part A application form in Part I of the permit application. The Executive Director has also revised Section III.D to represent accurately the applicant's information regarding waste acceptance rates. The Executive Director did not make any changes to Section IV.H regarding bird safety, nor to Section VIII.D regarding preconstruction meetings (even though the facility is not expanding laterally, the preconstruction meetings are still necessary to verify that all aspects of the permit, construction activities, and inspections are met).

CHANGES MADE IN RESPONSE TO COMMENTS

The Executive Director has made the following changes to the draft permit based on comments:

1. Revised the cover page of the draft permit to identify the applicant, BFI Waste Systems of North America, Inc., as the sole permittee, and to identify BFI Waste Systems of North America, Inc., and Giles Holdings, L.P. together as property owners.
2. Revised Section III.D to represent accurately the applicant's information regarding waste acceptance rates.
3. Revised Section III.E to correct the number representing the total waste disposal capacity of the landfill for the proposed amendment.
4. Revised Section VIII.I to delete the reference to alternative daily cover.
5. Added a Special Provision specifying that all waste receipt shall cease on or before November 1, 2015.
6. Added a Special Provision to prohibit leachate and gas condensate recirculation.
7. Added a Special Provision to clarify that the permittee is required to repair eroded cover within 5 days of detection unless the commission's regional office approves otherwise.

Respectfully submitted,


Steve Shepherd
Attorney
Environmental Law Division
State Bar No. 18224200

Representing the Executive Director
of the Texas Commission on
Environmental Quality

CERTIFICATE OF SERVICE

I certify that on September 28, 2007, the "Executive Director's Response to Public Comment" for Permit No. 1447A was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.


Steve Shepherd, Attorney
Environmental Law Division
State Bar No. 18224200

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
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CHIEF CLERK'S OFFICE

¹ Comments were received in writing and/or orally, by mail and at the May 24, 2007, public meeting on this application, from Samuel Biscoe, Travis County Judge; Gerald Daugherty, Travis County Commissioner Precinct 3, Ron Davis, Travis County Commissioner Precinct 1; Sarah Eckhardt, Travis County Commissioner Precinct 2, Margaret Gomez, Travis County Commissioner Precinct 4; Hector Gonzales, Mayor, Village of Webberville; Mark Strama, State Representative District 50; and Kirk Watson, State Senator District 14.

² Comments were received in writing and/or orally, by mail and at the May 24, 2007, public meeting on this application, from Lane Ahnell, Robert Andrews, Karin Ascot, Ed Attra, Todd Ballard, Jeremiah Bentley (representing Harris Branch Residential Property Owners Association), Joyce Best (representing NorthEast Action Group), Jim and Cheryl Bowles, Dr. & Mrs. J.L. Breazeale, Dewy Brooks, Linda Bullock, Neil Carman, (representing the Sierra Club, Lone Star Chapter), Mary Carter (representing Northeast Neighbors Coalition), Doka Cullender, Chuck Dabbs, Juan DeAnda, Mandy Doctoroff, Jocelyn Doherty, Trek English (representing NorthEast Action Group), Jeannie Ferguson, Wallace and Marsha Fowler, Kyle and Sara Friesen, Ellen Hironymous, Dennis Hobbs (representing TJFA, L.P.), Lisa, Joel, and John Hotchkiss, Kim Jones, Ronald and Cam Junker, Sheila Kannappan, Amy Kersten, Janet Klotz, Robert Lanford, Amber Luttig-Buonodono, Ariana Martinez, Emilio Martinez, Fabian Martinez, Jesus Martinez, Maria Martinez, Rebecca Martinez, Anne McAfee, Melanie and Mark McAfee (representing themselves and NorthEast Action Group), Christine and Kenneth W. Miller, Jan Milstead, Roberto and Cindy Montoya, Susan Morgan, Alto and Rosemary Nauert, Craig Nazor, Mike O'Brien, Laurel O'Neal, Alice Penney, Abel Porras, Leahbeth Prince, Sherry Pyle, Cecil and Evelyn Remmert, Georgia Rich, F. Rinehart, Dr. Delmer Rogers, Mike and Ramona Rountree, Celeste Scarborough (representing Pioneer Farms and Pioneer Crossing neighborhood), Robin Schneider (representing Texas Campaign for the Environment), Roy and Janet Smith, Germaine Swenson (representing Park Springs Neighborhood Association), Joyce Thorsen (representing Walnut Place Neighborhood Association), Elizabeth Trevino (representing NorthEast Neighbors Coalition), Andrea and Jason Troncale, K. C. Walter, Martha Ward (representing Ridge Top Neighborhood Association and North Loop Planning Team), Robert Werstler, John Wilkins, David Williams, Evan Williams (representing himself and representing Williams Ltd.), and Rex Yocum.

³ See Texas Water Code, Sections 5.551 - 5.557.