

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV -1 PM 1:57

CHIEF CLERKS OFFICE

October 29, 2007

MSW  
51757

LaDonna Castanuela, Chief Clerk  
TCEQ, MC-105  
P. O. Box 13087  
Austin, Texas 78711-3087

OPA H

NOV 01 2007

BY \_\_\_\_\_



RE: BFI Waste Systems of North America, Inc.  
Permit No. 1447A

Dear Ms. Castanuela:

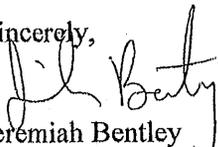
I am Jeremiah Bentley, President of the Harris Branch Residential Property Owners Association. I speak on behalf of myself and other property owners in our organization. We are affected parties who are adversely affected by the BFI landfill as it exists now, and would be further adversely affected by any vertical expansion of the landfill.

Hundreds of homes in Harris Branch are within 1 mile of the landfill, and the remainder of the more than 1,000 existing residences are within 2.5 miles of the BFI landfill. We dispute the finding of the Executive Director as indicated in *Comment 22* (see page 18 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A). We take issue with the Executive Director's finding as follows: "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.*"

As hundreds of people in our neighborhood will attest, odors from the landfill continue to be problem that keeps us from using our outdoor areas at times. People who use the trails for jogging and bicycling have found it necessary to curtail their use of our greenbelts as well as other amenities such as tennis courts and the swimming pool due to the disgusting odors from the landfill. Our children deal with this every day as they attend Bluebonnet Elementary School. The health of our neighbors is not protected from these gases and odors at the present time. How, then, can you say that BFI is in compliance with the regulations now, and odors continue to be a major drawback to the enjoyment of our property? And if you believe they are in compliance now, that is, that you believe BFI is currently protecting "human health and the environment," then it seems there is little hope you will be at all concerned with even greater odors and detrimental environmental effects that will occur if this expansion is granted. The most striking thing about these issues are that they continue to this very day when one would expect BFI to be putting their best foot forward as they press for this expansion

We request a contested case hearing.

Sincerely,



Jeremiah Bentley  
President, HBRPOA  
12100 Kilmartin Lane  
Manor, TX 78653  
(512-272-4038)

MSW

JUN 18 2007 3:40PM

TX MUTUAL INS

NO. 3401 P. 1  
VIA FAX

*MSW*  
*31757*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*HR* OPA

2007 JUN 18 PM 3:54

JUL 20 2007

June 18, 2007

CHIEF CLERKS OFFICE

BY     *SM*    

Office of the Chief Clerk, MC 105  
Texas Commission on Environmental Quality  
12100 Park 36 Circle, Building F  
P. O. Box 13087  
Austin, TX 78711

Dear Chief Clerk:

I am writing to oppose the expansion of the BFI/Sunset Farms Landfill and request that the Executive Director deny the Permit #1447 – Proposed Landfill Expansion (Permit 1447-A). I also request a contested case hearing on this permit application.

I am a resident in the Speyside subdivision of the Harris Branch neighborhood and president of the Harris Branch Residential Property Owners Association (HBRPOA). There are over 1,000 homes currently built in Harris Branch. Two major homebuilders have signed commitments to put in another 800 houses in the neighborhood during the next few years. Many of these houses are within a couple miles of the landfill. The neighborhood is adjacent to Bluebonnet Trail Elementary and many of our children attend school at Bluebonnet Trail in close proximity to the sight and smell of the Sunset Farms Landfill. I am opposed to the expansion due to the following concerns:

- **Air/water pollution** – The air pollution has become notable again. On May 31, I received email complaints from several residents regarding the overwhelming landfill odor in the area. On June 2, I attended a meeting at Harris Branch Park, which is a city park located between Bluebonnet Trail and the BFI Landfill. The smell was again overwhelming to those of us in attendance at the meeting. I cannot imagine that this city park gets much use because of the odor and buzzards in the area. Remember that these complaints occurred at a time when an expansion application is on file and one would expect the landfill to be on its "best behavior" in order to prove that the rampant problems that resulted in significant fines in the late 90's/early 2000's are behind them.

Water pollution is another concern. The retention system in the area does not appear to be adequate to deal with a moderate sized rain. Homeowners on the west side of the Sunset Farms landfill have reported that the runoff is destroying their back yard. Giles Road is a mess of runoff following most rains, and the sediment is not immediately cleaned up. Last year, I observed that runoff had been allowed to sit on the road long enough that weeds had taken root and grown to several inches high before being removed. There's no telling what happens to this water as it runs into the aquifer and nearby streams and lakes.

*MSW*

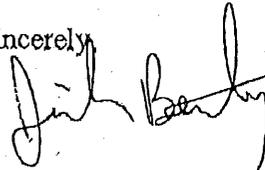
All of this occurs within a very short distance of an elementary school. Children that attend Bluebonnet Trail and people that work there provided public comment at the TCEQ Public Meeting on May 24. These children & adults reported serious concerns with the smells and sights of the landfill. Children reported being nauseous after being outside at recess on certain days.

- **Soil erosion** – Dr. Delmer Rogers, who is also on the HBRPOA Board, has been documenting monthly the north and west sides of the landfill. Dr. Rogers has observed constant erosion. The heavy rains from January through May have caused vast channels of silt to flow into the collection ponds and reveal trash that has not been sufficiently covered. BFI's piling of dirt everywhere is being constantly eroded.
- **Inconsistency with the surrounding development** – The area around the landfill has been designated as a desired development zone by the city of Austin. Neighborhoods are growing up all around in the area. While properly developed and maintained landfills (of which Sunset Farms is not) may have been consistent with the rural nature of the area in the early 1980's when the landfill went into business, they are not consistent with the current and future development in the area.

BFI has stated that they only have enough capacity to operate for three or four more years at their current rate in this location. BFI has known for a number of years that this landfill would be full in the relatively near future, and has done nothing to proactively seek a new site out. As long as there is no motivation to close Sunset Farms and seek a new location, there's no reason to believe that BFI will take any proactive steps to find a more desirable location for their landfill. Allowance of this expansion will not provide the needed incentive and will instead continue to punish the residents of northeast Austin and have a negative effect on our lives and health.

I hope that wherever BFI goes, the new site will have environmental protections and safeguards that were not in place at Sunset Farms. Landfills have to be somewhere. But, Sunset Farms has outlived its usefulness at its current location and in its current structure and it is time for BFI to go.

Sincerely,



Jeremiah Bentley, President  
Harris Branch Residential Property Owners  
Association  
12100 Kilmartin Lane  
Manor, TX 78653  
jbentley813@hotmail.com  
(512) 272-4038 home  
(512) 963-0494 mobile

Have formal oral comment. (22)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

**BFI Waste Systems of North America, Inc.**

**Proposed Permit MSW 1447A**

PLEASE PRINT:

Name: JEREMIAH BENTLEY

Address: 12100 KILMARTIN LANE

City/State: MANOR, TX 78653

Zip: \_\_\_\_\_

Phone: (512) ~~224~~ 272-4038

CHIEF CLERKS OFFICE

2007 MAY 25 AM 11:36

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one?

HARRIS BRANCH RESIDENTIAL PROPERTY OWNERS ASS'N

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*MW*

*MSJ*  
*51757*

Joyce E. Best  
4001 Licorice Lane  
Austin, TX 78728  
512.531.9430

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV -5 PM 2: 26

CHIEF CLERKS OFFICE

November 5, 2007

H  
RFR  
NOV 05 2007  
BY ky

LaDonna Castanuela, Chief Clerk  
TCEQ, MC-105  
P. O. Box 13087  
Austin, Texas 78711-3087

RE: BFI Waste Systems of North America, Inc.  
Permit No. 1447A

Dear Ms. Castanuela:

My name is Joyce Best. From September 30, 1990 until July 16, 2006, I lived with my family at 11400 Ashprington Cove, Austin, Texas, 78754, approximately 1.5 miles from BFI landfill. My current address is 4001 Licorice Lane, Austin, TX 78728 (512-531-9430).

I was an affected party during the time I lived near the landfill. My family and I suffered from the effects of odors, dust and mud, truck traffic, and other operational problems at the BFI landfill. These practices affected the enjoyment and use of our property, and even the ability of guests in our home to sleep at night due to noise from back-up beepers on the trucks at BFI. I am appalled that the executive director would approve a 75-foot vertical expansion of the BFI landfill. **I therefore request a contested case hearing. In the event my request for a contested case hearing will not be accepted, I wish to request a reconsideration of the executive director's decision based on the problems my family endured that still continue at the BFI Sunset Farms landfill.**

*MSJ*

LaDonna Castanuela, Chief Clerk  
November 5, 2007  
Page 2 of 6

I dispute the finding of the executive director as indicated in the following comments:

**Response 7: Regional Capacity, Facility as a Regional Landfill, and Planning for New Location**

I have personally heard BFI representatives state on at least two occasions that they do not need an expansion to continue landfilling at Sunset Farms until 2015. That being the case, given their statement that they need to operate there until 2015 while they prepare a new site, it is obvious that they need no expansion at all at this facility.

**Response 9: Low Economic Area, Health and Environmental Risks, and Environmental Impact Statement**

By what quantitative or qualitative standards does TCEQ operate when "taking into consideration the surrounding community regardless of its socioeconomic status"? This statement is so vague no one would recognize it as a valid response to a citizen's question. If TCEQ does no environmental impact study, it is impossible to justify this statement.

**Response 10: Compliance History, Complaint Response, and Enforcement**

According to your response, a company can receive a rating of 3.01, average by default, when it has never been inspected. BFI Waste Systems of North America, Inc. gets an average overall of 2.59, and the BFI Sunset Farms Landfill gets a rating of 17.77, but could go as high as 45 and still be considered "average," or "generally complies with environmental regulations." The broad spectrum of "average" is astounding. Even so, Sunset Farms has clearly not performed anywhere close to the overall average of BFI Waste Systems Inc., according to your figures. To continue to rate that facility as average after what must be over 1,000 complaints filed with the TCEQ since 2001 is a good example of just how bad "average" can be before it collapses into being "poor." Apparently the neighbors use a rating system that reflects higher environmental standards than you require.

**Response 13: Compatibility with Surrounding Community and Growth Trends**

The response ignores the many studies done by the City of Austin and other governmental agencies that cite the enormous current and future growth in population in the area immediately surrounding Sunset Farms landfill. Allowing BFI to provide its own data and then taking their word for it is like a Federal taxpayer being able to provide the IRS with an estimate of annual income with no supporting data. I can certainly understand that "the land use information submitted [by Sunset Farms] does not justify the commission denying the application based on the landfill being an incompatible land use." The data presented were out of date and skewed to represent conditions that do not exist in reality.

LaDonna Castanuela, Chief Clerk  
November 5, 2007  
Page 3 of 6

**Response 15: Buffer Zones and Easements**

The miniscule 50-foot buffers required by the agency are totally inadequate for the Sunset Farms facility. The statement that the application "meets the requirements for easements and buffer zones, and it includes adequate provisions to control odors and runoff" ignores not only the 1,000+ odor complaints already mentioned, but also ignores neighbors' photographic evidence of a number of runoff issues in the past five years.

**Response 17: Size of Facility and Visual Impact**

Be advised that despite what BFI represents in its application, one has only to look at the site to see how ludicrous the statement is 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." The sticks, twigs, and fencing put up can scarcely be called landscape screening, since they are at most a few feet high, some tiny trees alive, some dead. There is no vegetation that grows high enough to screen an above-ground waste column of 155 feet, as BFI proposes. Further, I am amused at the language "Waste deposited on elevated portions of the landfill will be *screened* by daily, intermediate and final covers . . ." To most people, screening actually implies more than throwing dirt over waste, which is what a cat does in a litter box.

**Response 22: Odor and Air Quality**

Of all the responses to the questions raised at the public meeting, in my opinion this response is the most infuriating and nauseating. How can any person familiar with the odor complaint history of this landfill say, "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." IT ISN'T HAPPENING NOW, AND UNLESS THE AGENCY ACTUALLY ENFORCES, IT WON'T HAPPEN IN THE FUTURE! It is disgusting to me to wade through all those paragraphs of procedure on pages 28-29 of the response, knowing that when citizens call to report odors, they are given an endless litany of excuses and possible causes of odor other than the landfill (most recently, a resident was told they were smelling a faulty water heater!). How much more insulting can Region 11 investigators get than to tell residents that they shouldn't report any more odors, because if they have to go to the residents' homes, the odors will probably be gone by the time they get there, and then no one will want to come out anymore, because they will think the residents are "crying wolf?" As laughable as this sounds, I assure you it is not an invention of my imagination. "The MSDSs indicated no adverse effects are expected on human health or the environment." I don't know of anyone within a two-mile radius of BFI who would not be offended and infuriated by that statement. And the final insult, "This is an MSW landfill permit amendment application, and air quality issues are generally outside the scope of review for landfill applications." If the landfill affects the air, then it is YOUR BUSINESS!

**Response 24: Dust**

BFI fails to solve the problems of excessive dust when the weather is dry, and the problem of mud on the public roadways when the weather is wet. These problems will become much worse when more trucks use these roadways as a result of an expansion. Simply quoting the rules and saying that the "application complies with all applicable requirements regarding control of dust" and "If dust creates a nuisance, please report the problem to the TCEQ Region 11 office" does not solve the problems! See Response 22 above regarding contacting the Region 11 office about any type of enforcement--it doesn't happen. When I lived in the area, frequently there were certain days I could not travel on Giles, Blue Goose, or 290 without having my car washed at the end of the day. There simply are not enough other roadways for people to use to avoid these problems. The "sweepers" BFI uses in dry weather stir up the dust and leave it hanging in the air. There has to be better technology than that.

**Response 25: Operating Hours, Noise, and Vibrations**

BFI's night operations and noise from back-up beepers have resulted in many complaints from area residents. Again, "the commission is not aware of information" because that information goes to Region 11, which tells the neighbors not to call them anymore, etc., etc. So, how would the neighbors possibly make their concerns known about any "nuisance under 30TAC 330.5(a)(2)"?

**Response 26: Tracking of Mud and Dirt onto Public Roadways**

See Response 24 above.

**Response 27: Windblown Trash, Roadside Trash, and Illegal Dumping**

Again, saying it doesn't make it so. And again, contacting Region 11 doesn't help . . . Residents' photographs tell the story. It will only get worse.

**Response 28: Scavenging Animals and Vectors**

This response, again, does not address the reality. Go back to your transcript and read the public meeting testimony of the children from Bluebonnet Trail Elementary School.

**Response 29: Liner and Leachate Collection System Design, Construction and Stability**

**Response 30: Vertical Expansion over Pre-Subtitle D Waste Areas**

In my opinion, TCEQ's rules are lax and rely on weak SOPs that allow BFI to break the rules with few negative consequences. The lack of management of their leachate resulted in fines for Sunset Farms within the last few years. In my opinion, to approve this huge vertical expansion over minimally-lined and completely unlined cells is to place the community at risk of health and environmental problems in the future, in addition to the current effects.

LaDonna Castanuela, Chief Clerk  
November 5, 2007  
Page 5 of 6

**Response 31: Daily Cover**

See Response 30 regarding lax rules and weak SOPs. The terrible odor problems that neighbors report as a result of Sunset Farms operations should require stronger measures than are currently in place.

**Response 33: Drainage and Erosion Controls**

Testimony at the public meeting and provided to the TCEQ on other occasions indicates that the drainage and erosion controls currently in place at Sunset Farms landfill are inadequate, at best, regardless of what the requirements may be. In some circumstances, the residents received better response from the City of Austin in requiring BFI/Sunset Farms to address drainage and runoff problems than from the TCEQ. It is ironic that most of the rules talk about drainage and erosion control AT CLOSURE, while ignoring current conditions. Again, photographs taken by residents tell the story on this issue, whether the rules address it or not.

**Response 36: Contaminated Water Runoff**

See Response 33.

**Response 38: Subsurface Investigation and Groundwater Monitoring**

Although applicant proposes to add 17 new groundwater monitor wells, the 600-foot spacing between wells that is required in the new rules is still too great a distance to properly monitor the type of contaminants present in this landfill. Further, due to the presence in the adjacent Waste Management landfill of thousands of barrels of industrial waste in unlined cells, the possibility of migration of contaminants from those barrels should require monitoring for more constituents than Appendix I only.

**Response 39: Landfill Gas Management**

The constant and continuing presence of odors in the off-site areas surrounding BFI landfill indicate inadequate operating procedures from which poor landfill gas management cannot be excluded. Because the applicant does not plan to expand the gas recovery system, and because residents have been told that the system only recovers 80% of gas production now, it is disingenuous for BFI to extol the virtues of this system that does not handle all of the gas now, and will not be expanded if additional capacity is granted to BFI. Further, although "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," data exist that call into question the safety of by-product emissions of such a system. IT IS NOT ENOUGH TO SAY THAT "the provisions and procedures for landfill gas management specified in the LGMP meet the requirements . . . and are expected to control releases of gas and odors from the landfill." Odor-causing gases are not being controlled now, and there is no indication that they will be controlled in the future.

LaDonna Castanuela, Chief Clerk  
November 5, 2007  
Page 6 of 6

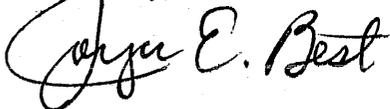
In general, the responses from the Executive Director are vague and extremely frustrating to citizens who thought they were going to get answers to some very specific questions. In my estimation, the basic responses we have been given in this set of comments and responses can be summarized as follows:

- TCEQ doesn't have to address certain specific questions because these questions are not required to be answered under the current TCEQ rules or the SOPs of this applicant;
- Any questions raised that must be answered under current rules or SOPs get a response that can be paraphrased as, "the applicant is required to do (whatever the issue) under the terms of their permit, and we think they will."

Based on the experiences of the neighbors around BFI/Sunset Farms, I could paraphrase their response as "Our health and the environment where we live is not being protected now by the applicant, and this application for expansion does not give any indication that the applicant will perform any differently in the future."

Please grant a contested case hearing for this application.

Sincerely,



Joyce E. Best  
4001 Licorice Lane  
Austin, TX 78728  
512-531-9430

MSW  
51257

June 28, 2007

OPA  
H JUN 29 2007  
BY     *ll*    

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2007 JUN 29 PM 12:50  
CHIEF CLERKS OFFICE

Ms. LaDonna Castanuela  
Office of the Chief Clerk MC105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, TX 78753

RE: BFI Waste Systems of North America, Inc.  
Proposed Permit Amendment #1447A

Dear Ms. Castanuela:

On behalf of the citizens whose signatures are attached, we officially request a contested case hearing on this permit.

The individuals represented here either live or work in the area in which BFI landfill is located. They are affected by the odors, traffic, dust, wind-blown trash and other problems that are present in the area due to the operation of this landfill. The expansion of this landfill would be even more detrimental to the quality of life of these individuals.

Should you need additional information, please notify us.

Sincerely,

*Joyce Best*

Joyce Best  
4001 Licorice Lane  
Austin, TX 78728

512-531-9430 (home)  
512-917-6032 (cell phone)

*ll*

OPA

JUN 29 2007

MAY 24, 2007

MSW  
51757

H

BY

RL

CHIEF COMPLAINT OFFICE

2007 JUN 29 12:50

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

WE, THE UNDERSIGNED, OPPOSE THE APPLICATION FOR EXPANSION OF THE BFI WASTE SYSTEMS OF NORTH AMERICA INC./GILES HOLDINGS L.P. (TCEQ PERMIT #1447A). WE FURTHER REQUEST A CONTESTED CASE HEARING ON THIS PERMIT.

NAME	ADDRESS	PHONE
✓ 1 Elizabeth Trevino	12209 Little Fatima Ln Austin TX 78753	512 339-8006
✓ 2 Terry Cornial	11017 Reliance Creek Dr Austin, TX 78754	(512) 784-0710 784-0710
✓ 3 Amy Wimmanson	11017 Reliance Creek Dr Austin, TX 78754	512-339-4833
✓ 4 James MARSHALL	6300 Thirlwarc CT Austin, TX	512-272-5375
✓ 5 Sherry Pyle	1509 Panton falls Dr Austin, TX 78754	512-339-9645
David Fenlock		512-
✓ 6 David Gumbert	8004 Brown Cemetery Rd Manor TX 78653	272-4959
✓ 7 Alfred W. Winkler	16519 Mahlow Rd Manor, TX 78653	512-278-0835
✓ 8 Jeffery Seider	6605 Larisbrooke Ln Austin, TX 78754	512-382-5417

MSW

MAY 24, 2007

msw  
5/25/07 H

OPA

JUN 29 2007

BY ll

WE, THE UNDERSIGNED, OPPOSE THE APPLICATION FOR EXPANSION OF THE BFI WASTE SYSTEMS OF NORTH AMERICA INC./GILES HOLDINGS L.P. (TCEQ PERMIT #1447A). WE FURTHER REQUEST A CONTESTED CASE HEARING ON THIS PERMIT.

	NAME	ADDRESS	PHONE
✓1	<del>Vincent</del> Jocelyn Doherty	1103 BYERS LN. AUS 78753	512 873-1391
✓2	Amber Buonodono	1105 Seay St. Austin, TX 78754	(512) 417-2853
✓3	Tony Buonodono	1105 Seay St Austin, TX 78754	512-417-2826
✓4	Pam Luthy	1105 Seay St Austin, TX 78754	512-420-5275
✓5	Allan Luthy	1105 Seay St Austin, TX	512-420-5275
✓6	Melissa Fields	3521 Long Day Austin TX	512-491-9838
✓7	Chuck DABBS	11410 BIRCHOVER LN Austin, TX 78754	512-272-4438
✓8	KATHRYN EALBEE	11406 BIRCHOVER LN AUSTIN, TX	512-272-9843

MW

MAY 24, 2007

MSW  
51754

H JUN 29 2007

BY     

WE, THE UNDERSIGNED, OPPOSE THE APPLICATION FOR EXPANSION OF THE BFI WASTE SYSTEMS OF NORTH AMERICA INC./GILES HOLDINGS L.P. (TCEQ PERMIT #1447A). WE FURTHER REQUEST A CONTESTED CASE HEARING ON THIS PERMIT.

NAME	ADDRESS	PHONE
✓ 1 <u>JAN PYKA</u>	<u>8807 NEWPORT LN</u> <u>AUSTIN TX 78754</u> <u>CHIMNEYHILL TOWN HOMES 1974</u>	
✓ 2 <u>ROLAND VALLES</u>	<u>8805 Newport Lane</u> <u>Austin, TX 78754</u>	
✓ 3 <u>Michael S Young</u>	<u>8901 Newport Ln</u> <u>Austin TX 78754</u>	
✓ 4 <u>WELDON LOUG</u>	<u>2118 SO. CONGRESS</u> <u>AUSTIN TX 78704</u>	<u>512-442-5562</u>
✓ 5 <u>Merry Righmer</u>	<u>6305 Third Street</u> <u>Austin, TX 78754</u>	<u>512-272-8386</u>
✓ 6 <u>VU TRAN</u>	<u>6854 Thistle Hill Way</u>	<u>512-278-1849</u>
✓ 7 <u>REBECCA MARTINEZ</u>	<u>1613 BRUSHY VIEW COVE</u> <u>AUSTIN, TX 78754</u>	<u>512-837-4744</u>
✓ 8 <u>ED AITNA</u>	<u>1613 BRUSHY VIEW LN</u> <u>AUSTIN, TX. 78754</u>	<u>78754</u>

MSW

MAY 24, 2007

MSW  
5/25/07

H JUN 29 2007

OPA

BY ll

WE, THE UNDERSIGNED, OPPOSE THE APPLICATION FOR EXPANSION OF THE BFI WASTE SYSTEMS OF NORTH AMERICA INC./GILES HOLDINGS L.P. (TCEQ PERMIT #1447A). WE FURTHER REQUEST A CONTESTED CASE HEARING ON THIS PERMIT.

NAME	ADDRESS	PHONE
✓1 <u>NORA LONCORIA</u>	<u>7005 Dagon</u> <u>Austin, TX 78754</u>	<u>512-277-8968</u> 512-
✓2 <u>JANET SMITH</u>	<u>11815 Cameron</u> <u>Manor, TX 78653</u>	<u>415-8829</u> 512-
✓3 <u>Mark Wilkerson</u>	<u>5909 Boyce Ln</u> <u>Manor, TX 78653</u>	<u>272-9025</u> 512-
✓4 <u>Jeremy Vest</u>	<u>5917 Boyce Ln</u> <u>Manor, TX 78653</u>	<u>272-9875</u> 512-
✓5 <u>Karen Vega</u>	<u>5917 Boyce Ln</u> <u>Manor, TX 78653</u>	<u>272-9875</u> 512-
✓6 <u>SUSAN MORGAN</u>	<u>1611 Brushy View Ct</u> <u>78754</u>	<u>834-1707</u> 512-
✓7 <u>Sean Co He</u>	<u>11009 S. 10 Vally Dr</u> <u>Austin, TX 78754</u>	<u>833-5706</u> 512-
✓8 <u>Lionel Bess</u>	<u>4713 Fort Mouthric</u> <u>Austin TX 78754</u>	<u>928-3634</u> 512-

ll

OPA

H JUN 29 2007

MSW  
51757

MAY 24, 2007

BY    a   

WE, THE UNDERSIGNED, OPPOSE THE APPLICATION FOR EXPANSION OF THE BFI WASTE SYSTEMS OF NORTH AMERICA INC./GILES HOLDINGS L.P. (TCEQ PERMIT #1447A). WE FURTHER REQUEST A CONTESTED CASE HEARING ON THIS PERMIT.

NAME	ADDRESS	PHONE
✓1 <u>Mary Lehmann</u>	<u>110 E 37<sup>th</sup></u> <u>Austin 78705</u>	<u>512-478-9812</u>
✓2 <u>Cloyce Spradling</u>	<u>593 Bayce Ln.</u> <u>Manor 78653</u>	<u>512-278-0453</u> 512-
✓3 <u>Tim Fleetwood</u>	<u>9011 Magna Cartwheel</u> <u>Austin TX 78751</u>	<u>797-6679</u>
✓4 <u>Jeremiah Bentley</u>	<u>12100 KILMARTIN LANE</u> <u>MANOR, TX 78653</u>	<u>512-272-4038</u> 512-
✓5 <u>David Williams</u>	<u>11604 Rydevector</u> <u>Austin, TX 78754</u>	<u>468-4073</u> 512-
✓6 <u>James Daniel</u>	<u>11333 AVERING LN</u> <u>Austin, TX 78754</u>	<u>272-4263</u> 512-
✓7 <u>CAM JUNKER</u>	<u>11709 LANSDOWNE</u> <u>Austin, TX 78754</u>	<u>278-8108</u> 512-
✓8 <u>RON JUNKER</u>	<u>11709 LANSDOWNE</u> <u>Austin, TX 78754</u>	<u>278-8108</u>

MSW

MAY 24, 2007

OPA

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51757

BY

ML

WE, THE UNDERSIGNED, OPPOSE THE APPLICATION FOR EXPANSION OF THE BFI WASTE SYSTEMS OF NORTH AMERICA INC./GILES HOLDINGS L.P. (TCEQ PERMIT #1447A). WE FURTHER REQUEST A CONTESTED CASE HEARING ON THIS PERMIT.

NAME	ADDRESS	PHONE
✓ <sub>1</sub> GEORGIA RICH	1609 BRUSHY VIEW COVE Austin 78754	512-339-146
✓ <sub>2</sub> LEE COOK	9800 HWY 290 E.	512 WORK 928 78754 2795
✓ <sub>3</sub> Celeste Scarborough	1632 Payton Falls Austin, TX 78754	512- 658-8961
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ML



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PERMIT APPLICATION #1447A  
BFI Waste Systems of North America Inc.  
and Giles Holdings L.P.

H OPA  
JUN 29 2007

FORMAL COMMENTS FOR THE TCEQ  
June 29, 2007

BY all

2007 JUN 29 PM 12:50  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

My name is Joyce Best. I am a member of the NorthEast Action Group in Austin, Texas. We are adamantly opposed to the approval of this permit and we request a contested case hearing on this permit application.

**Deficient Air Quality Considerations**

BFI fails to address the already-existing problems of excessive dust when the weather is dry, and the problem of mud on the public roadways when the weather is wet. In combination with the same problems generated by the adjacent landfill, Waste Management, there are times in dry weather when a cloud of dust literally hangs over Giles Road near its intersection with US 290. How will BFI address the dust problem if an expansion is granted and the number of trucks coming to the landfill doubles? Each day many large, 18-wheel diesel transports and other diesel-powered vehicles dump their waste at BFI. Multiply the magnitude of that problem by two to include the same conditions at Waste Management. 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 the dust and landfill gases? BFI uses street sweepers on Giles Road. During dry weather, they are partially responsible for stirring up much of the dust on the roadway. During wet weather, neighbors of the landfills know to stay off of Giles Road and the adjacent section of US 290 unless they want mud-spray from the road on the lower half of their vehicles. It would be difficult to say whether the street sweepers help this situation or make it worse. It is also common during wet weather for large clumps of mud to fall from the trucks on Blue Goose and Giles before reaching the landfills. These mud clumps are definitely a hazard to drivers. With the increased number of vehicles projected, and the fact that the problem exists even now, what will BFI be required to do to eliminate these traffic hazards?

BFI/Sunset Farms currently converts a portion of the methane produced at the landfill into electricity for sale. What percentage of the methane from the landfill is currently converted? How much more methane will the new waste produce? What percentage is flared? What is the percentage of efficiency of the conversion process? Does BFI currently require the removal of halogenated non-methane organic compounds before the methane is processed? If so, what is the disposition of the filtered compounds? If not, what constituents (chlorine, fluorine, bromine, and all others) are escaping into the air as untreated by-products of this process? What air tests are done to determine what constituents are escaping? Does BFI test for inorganic contaminants including mercury and others, and if found, how are they disposed? How frequently are these tests conducted? Will the conversion plant be expanded if needed to process methane produced by an additional 9.5 million cubic yards of garbage as proposed under this permit? Although it is understood that the company doing the conversion operates under

a separate air permit than BFI, because the conversion plant is on-site and processes only methane from BFI/Sunset Farms landfill, these questions should be addressed as a part of BFI's proposed permit.

#### **Deficient Landfill Daily Cover Plan**

What provisions will BFI make for the lack of adequate dirt for daily cover if the 75 foot vertical expansion is approved? What kind of daily cover does BFI use in addition to dirt? Despite public testimony by BFI's landfill engineer (Ray Schull) that BFI Sunset Farms landfill has not used alternate daily cover in more than five years, the annual reports filed with the TCEQ for at least the past five years indicate that BFI Sunset Farms does use daily cover: "tire pieces/chips and ground woody waste." Since these types of cover are inadequate to prevent the escape of odor-causing and health-affecting landfill gases, what steps will BFI's management take to properly cover the working face every day when it is not being adequately covered at present? Is this even more important in the vast acreage covered by pre-subtitle D cells with no liners that would presumably have 50-75 feet of garbage added to the top?

#### **No Plan for Addressing Traffic, Roadside Trash or Noise Nuisances**

In its Supplementary Technical Report (3/14/2007) BFI states that the "primary access will continue to be Giles Lane, which intersects U.S.290 approximately a half-mile south of the entrance gate. The City of Austin maintains this road." Not addressed is that while BFI has committed to the neighbors that BFI trucks will only use Giles Road and US 290 (a commitment not fulfilled according to photographic evidence by neighbors), BFI does not address how it will control the hundreds of trucks that come to BFI Sunset Farms Landfill from other companies traveling from as far away as 90 miles. Many garbage trucks from closer locations use the narrow two-lane roads in residential areas to the north of the landfill. These roads are not adequately built to support such large numbers of trucks. In addition, even where such trucks have been prohibited, there continues to be significant truck traffic. What steps will BFI take to limit the traffic of its customers that affects the quality of life of BFI's neighbors? Further, the use of these smaller roads results in wind-blown trash being deposited along the roadside, at least in part by BFI customers. Since BFI does not currently pick up the roadside trash in those areas, what steps will BFI take to rid those roads of blown trash if the landfill expansion occurs and even more landfill customers use those routes?

US Highway 290 is a traffic nightmare during rush hours right now, and anticipated work on the highway to widen it and make it a tollway will make that problem unbearable. There are already many trucking operations that use the stretch of highway 290 near the two landfills. One needs only to sit at the intersection of Giles Road and Highway 290 at 7:30 in the morning or 4:30 in the afternoon to be convinced that too many trucks use that road now, and that traffic seems to be at a virtual stand-still. What steps will BFI be required to take to minimize the impact of the enormous increase of trucks that will use Highway 290 to reach the BFI landfill if the expansion is granted? Why should the health and safety of citizens be threatened by this additional truck traffic so that BFI can make more money by filling their expansion at a break-neck pace?

BFI currently operates as a 24-hour facility. That operation results in significant noise pollution for neighbors from traffic noise and the piercing noise of back-up beepers 24 hours a day. Neighbors over one mile away have complained that, even with windows closed in their homes, the backup beepers can be heard throughout the night and early morning hours, disturbing sleep of neighbors. Will the Sunset Farms Landfill be required to close at 7:00 p.m. every night in order to reduce this noise nuisance situation in a highly-populated area of the City of Austin and Travis County?

### **Drainage and Surface Water Protection are a Failure**

In its Supplementary Technical Report (3/14/2007) BFI states that "The facility has been designed, and will be constructed, to prevent the discharge of pollutants adjacent to, or into waters of the State of Texas or the United States of America. As part of the phased construction of waste disposal area, surface drainage structures will be provided to control stormwater runoff and runoff for both active and completed portions of the landfill." Who is verifying the sufficiency of the design, since the design continues to fail? As pointed out by an adjacent landowner (Public Meeting Formal Comments, May 24, 2007) and my own testimony, and in spite of BFI's assertion in this Report, the facility's design is a complete failure in preventing polluted storm water from leaving the site. Citizens have provided photographic evidence on many occasions about the volume and velocity of stormwater that leaves the site. The Agency's lax attitude about this situation has been evident for several years. Citizens have had to rely on involvement by the City of Austin in order for any corrective action to be taken, however temporary. Over the past five years, there have been several instances of what the Agency has described as "unusual" storm events that have resulted in uncontrolled runoff from the site. These events are happening at least annually or even more frequently, so why does the Agency's enforcement division refer to them as "unusual" storm events? What specific procedures will the Agency require of BFI, should the vertical expansion occur, so that the current scandalous drainage disaster will be corrected, and that "control" of stormwater runoff and runoff will be adequate for the site? What exactly does the Agency understand the word "control" to mean in this context? Why would the Agency believe a 75 foot vertical expansion is appropriate on a site where the buffers are almost non-existent? How ludicrous is it that a public road, Blue Goose, should be included as part of the landfill's buffer? Such tiny buffers truly do not allow for any abnormal weather event to occur without causing environmental havoc on adjacent properties, which is an injustice to the neighbors.

Related to the runoff/runoff issue is the condition of the wetlands area at the northeast corner of the BFI/Sunset Farms landfill. After receiving permission from the County and City to restructure the drainage area, one pond on the northeast corner was filled in with dirt. It is impossible for a passerby to determine if the remaining pond still has water. While at one time the pond was a home to various types of waterfowl, it now appears to be overgrown and choked with some aquatic plants and many weeds, and surrounded by a wire fence. By testimony of neighbors who have been in the area since the 1940's, that pond has always been in existence in this very wet portion of the site. Does the pond still have water in it? Is there a significant amount of water, or is it simply a marshy area now filled with silt from the erosion of the nearby landfill cells? Why is there no concern for

the apparent destruction of this wetlands habitat for waterfowl? What is the Agency's definition of the word "protection" in the Technical Report's section on surface water?

### **Groundwater Monitoring**

Part of the drainage area on the BFI/Sunset Farms landfill site also serves as drainage for a portion of the immediately-adjacent Waste Management landfill. Since some experts believe there is risk of groundwater contamination due to known industrial/hazardous waste disposed at the Waste Management landfill that could migrate to portions of the BFI/Sunset Farms site, will the TCEQ require BFI to test for Appendix IX constituents in the groundwater monitoring rather than the limited number of constituents for which monitoring is now done?

### **Deficient Odor Control**

Since I filed my first written comments on May 24, 2007, numerous additional odor complaints have been filed by neighbors of the BFI landfill. The enforcement division at the Agency has told us repeatedly that the landfills are "doing everything they can" to control the odor problems, but they continue. Is BFI's leachate collection system insufficient to deal with the odor-causing gases being released? Is BFI currently operating with no more than 12 inches of leachate on the liners? Is BFI currently recirculating leachate on its site? Will BFI be permitted to recirculate leachate under the proposed permit? Are odors resulting because waste trucks are coming from such long distances that the waste is old and smells putrid when it arrives at the landfill? What is the most remote distance (in miles) from which trash is collected before it is transported to BFI (not the same as the location of the most remote transfer station)?

As a tax-paying citizen, I find it deplorable that the TCEQ chooses to spend money to allow landfill expansions to be permitted with a minimum of scrutiny, and attempting to change the rules so that the citizens' role in the process is limited as much as possible. At the same time, when the citizens complain about violations of the rules, they are told that there is insufficient staffing in the enforcement division to investigate complaints quickly. At least one "investigator" tried to talk a citizen out of making an odor complaint, and another (my personal experience), accused me of encouraging another citizen in the area to make an odor complaint at the same time—an infuriating and totally false accusation. Please answer these questions: Why must the citizens have to tell the Agency exactly which regulations are being broken in order to convince the Agency to investigate? Why does the Agency choose to give a green light to inappropriate landfill expansions when it acknowledges that it is unable to enforce the regulations that are supposed to protect the health and safety of the citizens from bad landfill operators?

PERMIT APPLICATION #1447A  
BFI Waste Systems of North America Inc.  
and Giles Holdings L.P.

FORMAL COMMENTS FOR THE TCEQ  
May 24, 2007

Joyce Best  
4001 Licorice Lane  
Austin, TX 78728  
512-531-9430

CHIEF CLERK'S OFFICE

2007 MAY 25 AM 11:37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

OPA RECEIVED

MAY 24 2007

AT PUBLIC MEETING

*mw*

**PERMIT APPLICATION #1447A**  
**BFI Waste Systems of North America Inc.**  
**and Giles Holdings L.P.**

**FORMAL COMMENTS FOR THE TCEQ**  
**May 24, 2007**

My name is Joyce Best. I am a member of the NorthEast Action Group in Austin, Texas. We will enter these comments tonight and will make additional comments before the close of the comment period. We are adamantly opposed to the approval of this permit and we request a contested case hearing on this permit application.

We are asking for clarification of the terms "formal comments" and "public comments" in the context of this meeting. Are "formal comments" that are made this evening the only comments that can be considered for discussion in a contested case hearing? Can written comments made throughout the remainder of the "public comment" period be used for discussion purposes in a contested case hearing? We have been told by some elected County officials that the public comment period has been extended beyond this evening, but we have been unable to confirm that. We also are extremely frustrated that the original notice about tonight's meeting was sent out to government officials immediately after April 24, but public citizens did not receive their notices until May 8. The entire process is very confusing and if the TCEQ is really interested in being responsive to the public, the notification process should be overhauled. Unfortunately, we have spent enough time at TCEQ working on the 330 rules and other rules to know that the industry is working hard to make sure that there is as little public notification and input as possible. We have only to look at the scheduling of this public meeting to see that. What exactly is the deadline for making public and/or formal comments, and which comments can be used for discussion in a contested case hearing?

**Land Use**

The City of Austin in its growth plan has indicated that the northeast quadrant is the fastest growing area of the City and has great potential for development. The City also noted that the area has two drawbacks: the two regional landfills in the middle of the desired development zone, and the flooding issues on Walnut Creek. Since Walnut Creek runs roughly parallel to the northeast landfills on the west side and BFI has two outfalls on the west side, both of these issues are pertinent to BFI. BFI's application represents the character of the land uses within one mile of their site to be "mixed and dynamic, being at the fringe of a rapidly growing city." That is the problem—the area is no longer at the fringe, it is rapidly becoming very centralized with anticipated dense population. BFI's attitude seems to be that since 18% of the area within one mile is landfill use, the remaining 82% should just have to put up with them and allow them to do what they want.

One elementary school is within ½ mile of BFI's boundary, and one child care center is approximately 700 feet from the permit boundary. A business with a national historic designation is slightly less than one mile from the BFI boundary. BFI estimates there are

39 businesses within one mile of BFI—38 of them are not landfills. We can think of no other business that bullies its neighbors into thinking that having 18% of the land share would entitle them to eternal expansions of any kind, to the economic and arguably, the physical, detriment of the residents of the area.

It would be pointless to estimate the number of residences in the area near BFI because the number is constantly increasing. A large number of residences are within the City of Austin. In addition, the SH 130 corridor is less than two miles away, with enormous anticipated commercial, retail and residential growth. We contend that the area was never a suitable land use for landfills, and today it is ludicrous to think of continuing to accommodate landfills in this space. It was never the intent of those who introduced the Subtitle D requirements that old, broken landfills should be able to expand above unlined cells and to become mega-landfills that would last forever.

Since early 2002, at the urging of the Travis County Commissioners Court, we have attempted to work with BFI. Throughout countless meetings and endless proposals from BFI, the bottom line is they have not given an inch on what they want. Their requested vertical expansion has **increased** by 20 feet over that period of time. The buffers for their site are miniscule, and their operations impinge on the property rights of others.

Residents have been subjected to gas emissions and odors that extend far beyond BFI's boundaries, sometimes being reported from several miles away. Approximately 1,000 odor complaints have been documented to the TCEQ since late 2001. BFI's standard response has been that the Waste Management landfill must be responsible. The TCEQ has been so permissive in its actions with BFI that despite all those odor complaints, only one violation was issued, in 2004. At one time residents were told by the TCEQ that they had to be throwing up from the odor before filing a complaint. One TCEQ official told us that because BFI had tried really hard and done lots of things to try to improve the situation, they probably would not get another odor violation—but the odors persist. Apparently trying hard is enough to satisfy the permit requirements. The most recent odor complaint was about two weeks ago. At that time, the TCEQ inspector said it stunk, but not enough to issue a violation. There is far more to be said about the odor situation than can be stated here. Odors have been a continuing problem that BFI has been unable to eliminate. The TCEQ is either unwilling or unable to enforce the rules, and efforts to strengthen the rules have been mostly unsuccessful. BFI has said that, if granted their expansion, they will operate with the same standards they are using now, or maybe better (even though they have also said they are doing the very best they can at the present time). The question we want to have answered is what specific steps does BFI plan to take to eliminate the odors, drainage problems, traffic problems, and all the other attendant problems if they are granted a 75-foot height expansion that will in itself exacerbate the already poor conditions at the site?

### **Floodplains and Wetlands**

In the application and Supplementary Technical Report, BFI states that in 2005 it purchased 54.1 acres of the site from Giles Holdings, L.P. According to the report, "This portion of the site is located on the northeast quadrant and is outside the current landfill

footprint.” What was the purpose of the purchase of the 54 acres? How does the purchase and change of ownership affect any commitments or agreements made with City of Austin or Travis County? How does the purchase of the 54 acres affect the agreement/deed restriction with Travis County to maintain the drainage and wetlands areas of the site? Is the primary authority for the drainage area now the City of Austin? Does BFI plan to do any moving of dirt or excavating of dirt from this acreage, and if so, what permits must be received from the City of Austin in order to do so? Does BFI plan to do further alterations to the remaining pond on the northeast corner of the site? The strip of acreage BFI owns along Giles Road is a significant drainage area not only for BFI but also handles runoff from a portion of Waste Management’s site. It also includes monitoring wells for BFI. Does BFI plan to pursue commercial development of the strip as the previous owner attempted at one time?

For well over a year, large mountains of dirt have been piled at the top of garbage-filled cells that are presumably at the maximum permitted height of the landfill. What is the height above sea level of the filled cells beneath the dirt mountains? What is the height above sea level of the dirt mountains? Where did the dirt come from? Was it excavated from this currently-permitted site? For what will the dirt be used? When an area resident asked a BFI official what the purpose of this dirt was, the only response from BFI was that it was for something that is allowed under the current permit. What is that “something?”

In 2004 the TCEQ levied fines against BFI as a result of a Notice of Violation for allowing more than 12 times the legal limit of leachate to form in its garbage cells, resulting in gas emissions that caused horrific odors to be dispersed for miles around the BFI site. At the same time, BFI was using alternate cover, which can allow more water to enter the cells than when dirt is used as the cover. If the dirt now piled atop the filled cells was excavated from BFI’s current site, why was the dirt not excavated and used for cover before this NOV was issued? Our recollection is that after the NOV was issued BFI agreed not to use alternate cover. Was that agreement only for a limited period of time? Does BFI now use alternate cover? If so, what types of cover? What percentage of the time does BFI use alternate cover rather than the dirt that provides optimum protection?

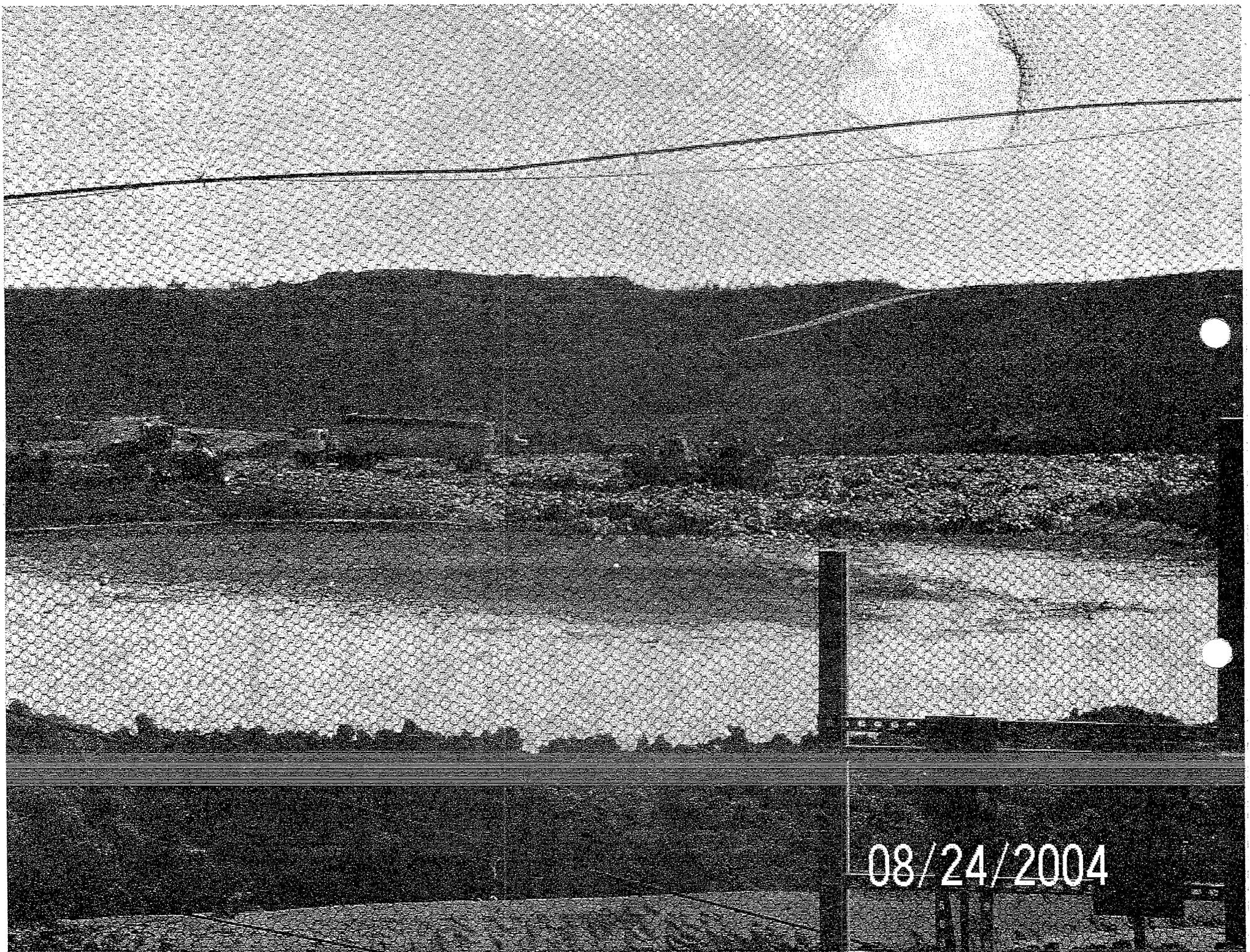
### **Ground and Surface Water**

In 2002, BFI asked for and received a 10-foot height expansion, stating that the additional height was needed to improve the drainage on the landfill site. That 10-foot height expansion also gained 2.3 years in capacity for the site, according to the BFI annual reports to the TCEQ. There have been numerous instances of drainage problems at the BFI site since 2002. The ten-foot height expansion granted in 2002 has done nothing to solve those problems. Drainage problems at the site in 2004 and 2005 prompted requests to the City of Austin for help. The City requested that BFI make some improvements to their berms and drainage channel in 2004. In March, 2005, a 1 ½ inch rapidly-falling rain caused destruction to the berms and a high velocity of storm water rushed off-site at outfall 1, which runs under Giles Road onto the Applied Materials property. Photographs we took appear to indicate that storm water actually ran over Giles Road in addition to flowing through the culvert beneath it. The TCEQ 330 rules state that there should be no

discharge of storm water that has come into contact with solid waste. BFI only completely covers the working face on Sundays, so logic tells us that storm water would have been contaminated by running through the garbage at the open working face. We also photographed what appeared to be exposed garbage on the landfill site, but the officials maintained that it did not originate on the landfill site, but was brought in by rushing water from the cornfield across the road. At the time, BFI had two or three large excavated areas that also collected storm water, but a large volume of storm water was still rushing offsite 12 hours after the rain. No violations of any TCEQ rules were issued for this storm event. If the "improved" drainage efforts already made by BFI cannot control storm water that results from a 1 ½ inch rain, how does BFI propose to control storm water with garbage that is 75 feet higher, and when the collection ponds are also covered with tons of garbage? How does the TCEQ propose to protect the citizens in the Decker Creek watershed who may possibly be subjected to contaminated storm water from such events?

During the week of May 14, BFI appeared to be operating two working faces. Was this because of the small rain that occurred mid-week? How does BFI determine when an existing working face is unusable and an alternate wet-weather working face is necessary? What is the percentage of days of operation over the past six years that BFI has operated two working faces at one time? On how many days of operation over the past six years has BFI diverted waste-carrying vehicles to off-site locations due to surface water problems of any kind?

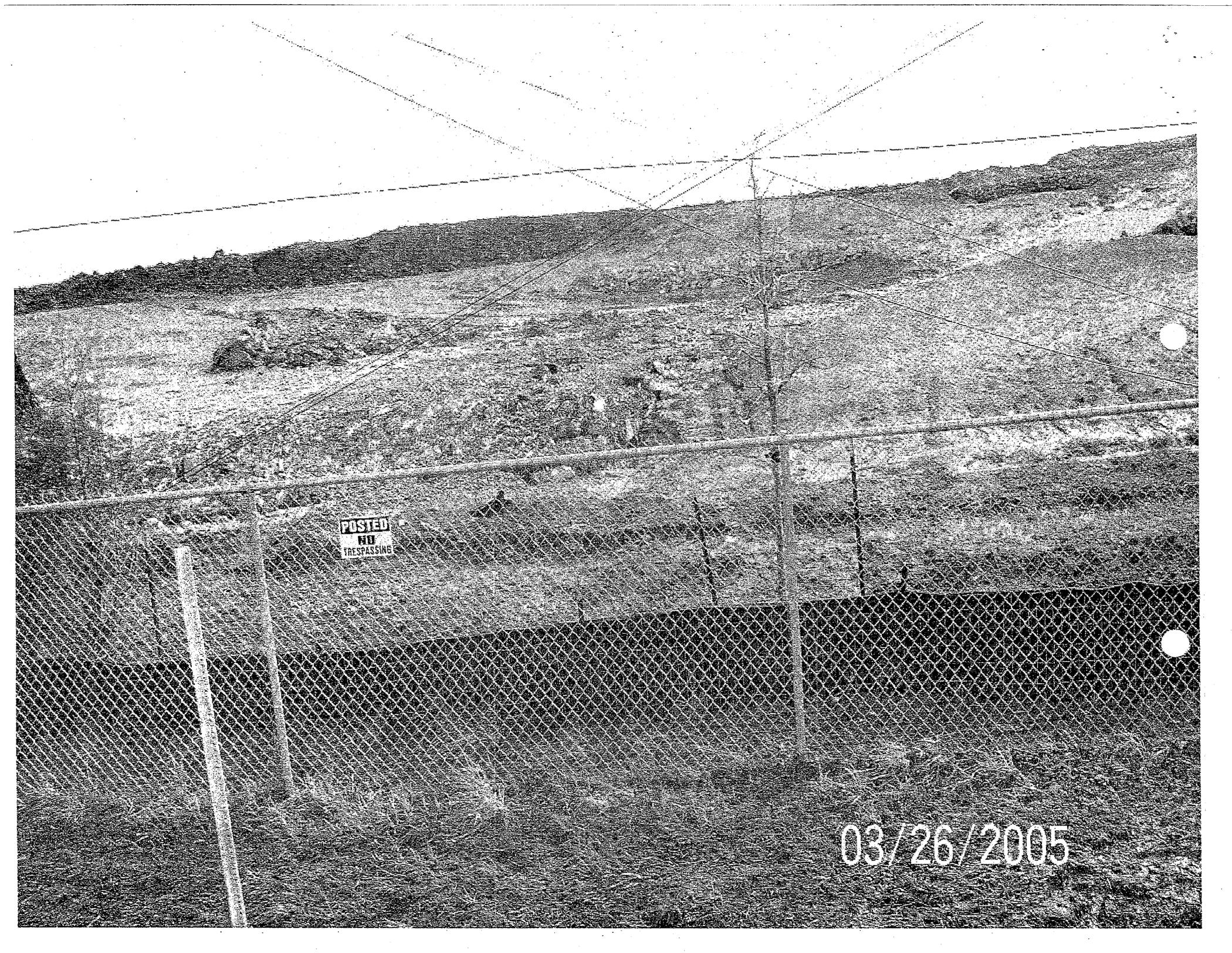
The people of northeast Austin have endured the detrimental effects of both BFI and its neighbor, Waste Management, for more than 25 years. It is time for Austin, Travis County, and the State of Texas to say no to further expansions of these landfills. Their problems cannot be fixed and they need to close at the end of the existing permit period.



08/24/2004

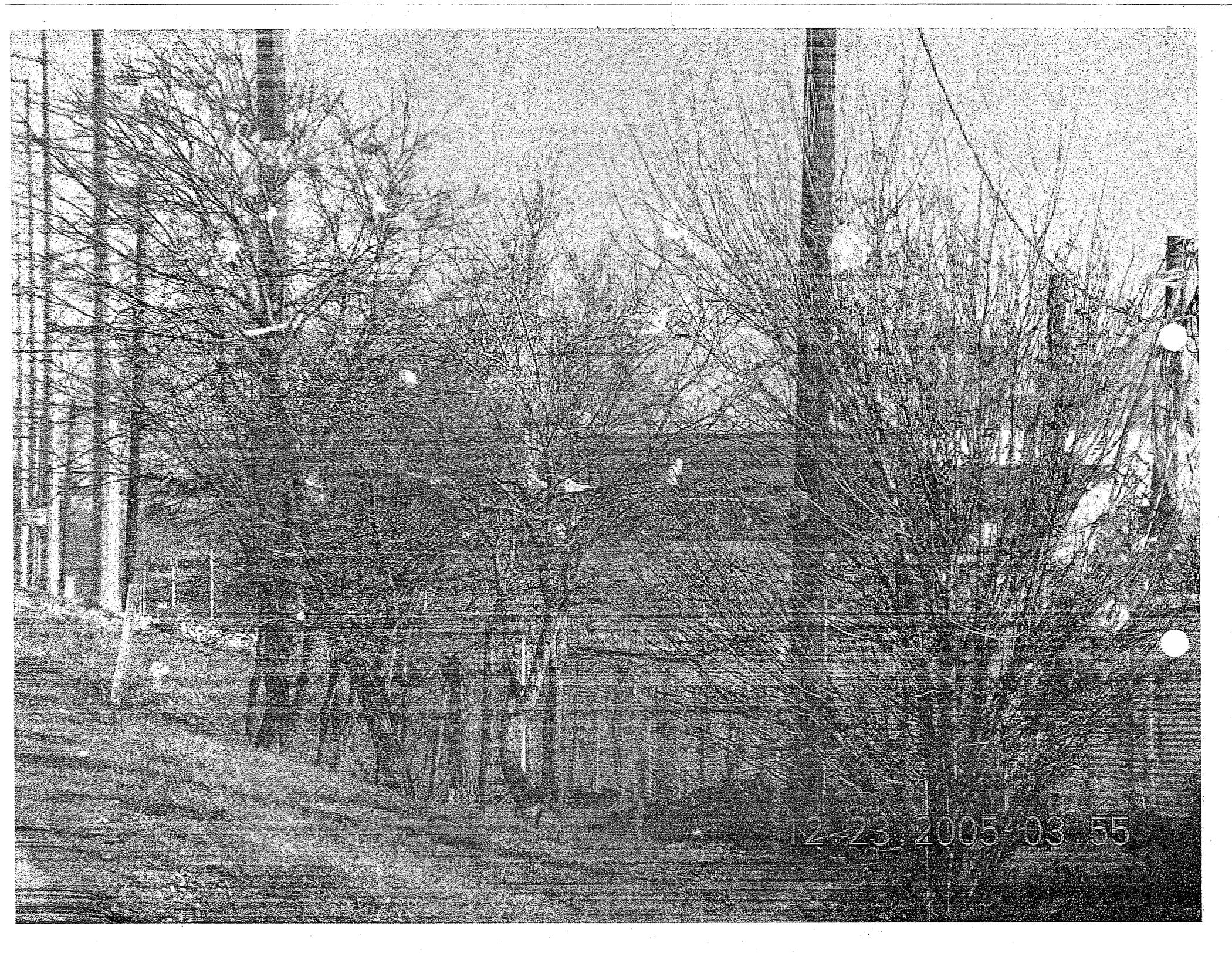


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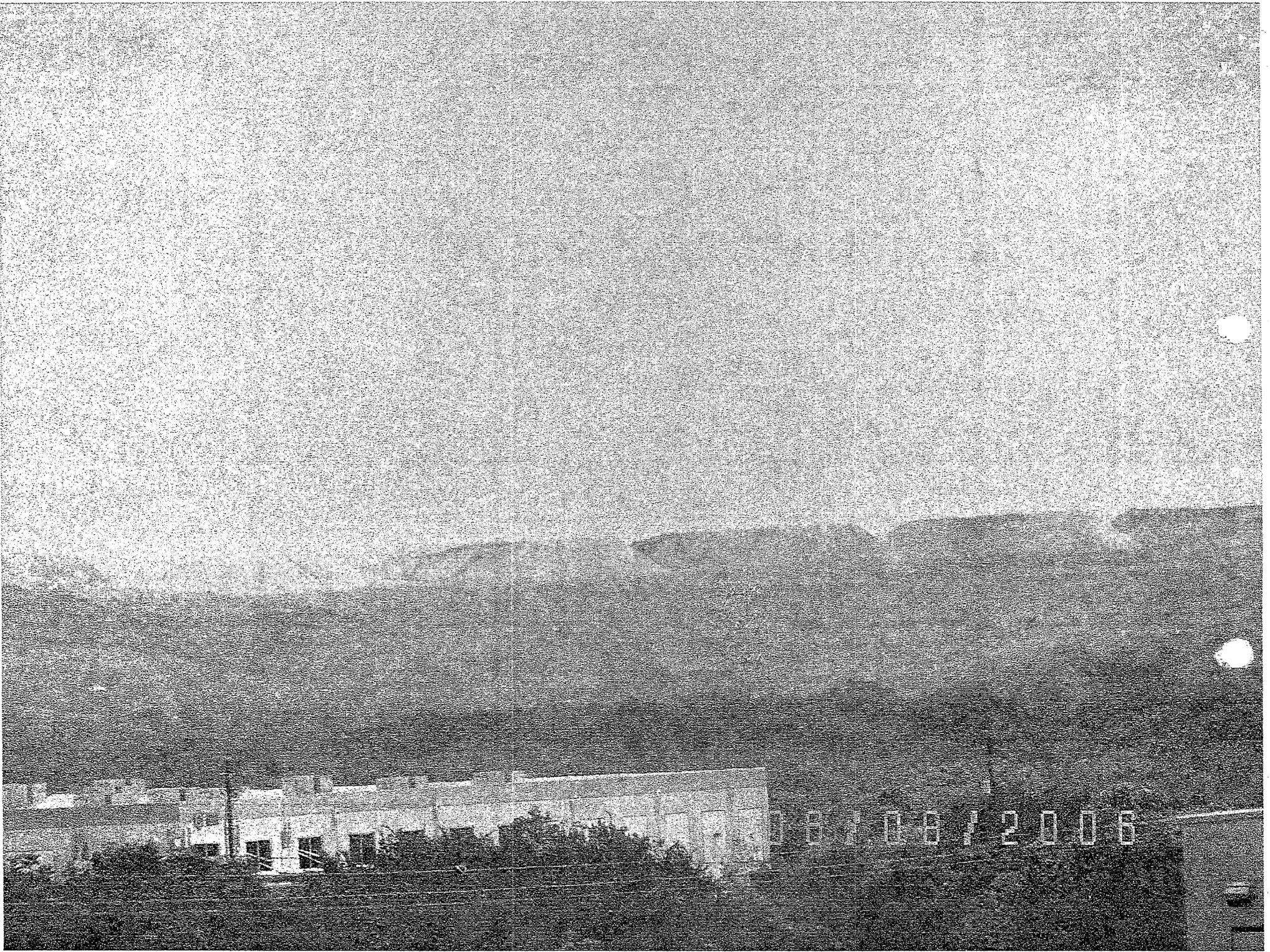
03/26/2005



12-23-2005 03:55



12-23-2006 10:50:50



Have formal oral comment  
- Filed written comments

(16)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

Spoke again (28)

**BFI Waste Systems of North America, Inc.**  
**Proposed Permit MSW 1447A**

Made further  
comment

PLEASE PRINT:

Name: Joyce Best

Address: 4001 Licarice Lane

City/State: Austin TX Zip: 78728

Phone: (12) 531-9430

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? NorthEast Action Group

CHIEF CLERKS OFFICE  
2007 MAY 25 AM 11:34  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

MW



I. Disputed Issues of Fact Relevant and Material to the Commission's Decision

Applicant Identification, Comment No. 5

We appreciate that the Executive Director has changed the Draft Permit to identify the applicant as BFI Waste Systems of North America, Inc. as the sole permittee, and to identify that BFI Waste Systems of North America, Inc. and Giles Holdings, L.P. are the property owners. This landfill, however, has a history of non-compliance with matters that directly impact the neighborhoods. The neighboring landfill, Waste Management Austin Community Landfill, also has a history of non-compliance with matters that affect the neighborhoods. Therefore, the neighbors must be sure there is a responsible entity for the operations at these landfills. The permittee must be responsible and responsive to the neighbors, without shifting responsibility to some other entity.

Permit Term, Comment No. 6

Although we still have concerns that this special provision will be honored in 2015, we are also gratified that a special provision has been included in the permit that specifies that BFI shall receive no waste after November 1, 2015. It must be understood by all parties that no amendments are allowed and no transfer station will be allowed at this site.

II. Land Use issues

Compatibility with Surrounding Community and Growth Trends, Comment 13.

The proposed permit amendment is not compatible with land use in the surrounding area. The adverse impact of this facility upon the community and group of property owners and individuals is unacceptable. Community growth patterns indicate that this is a rapidly growing residential area, incompatible with a nearly 200-foot tall landfill. Comments 17 and 14.

The character of the surrounding land uses within one mile of the proposed facility is generally residential and the growth trends of the nearest community are also residential. This expansion is in the community's preferred growth corridor designated as the "desired development zone." Expansion of a landfill is not compatible with these trends and growth patterns. 30 TAC §330.53(b)(8). Comments 13, 24, 26, 27, and 28.

Roads within a mile of the facility have not been fully identified by the applicant. Accordingly a reviewer cannot determine the adequacy of the access roads, availability of roads or volume of traffic. 30 TAC § 330.53(b)(9). Comment 20.

The draft permit authorizes this landfill to be open 24 hours a day 7 days a week which is unacceptable based on its proximity to residential neighborhoods. The landfill should be completely closed on Sundays, and closed from 9:00 p.m. to 5:00 a.m. nightly for all activities including waste acceptance, landfill construction and maintenance, waste composting and processing and the use of any heavy construction equipment. Comment 25.

Because of the landfill's history of odor violations, the New 330 rules should be followed for odor control. 30 TAC § 330.149 requires that the site operating plan have an odor management plan that addresses the "sources of odors and includes general instructions to control odors or sources of odors. Plans for odor management must include the identification of wastes that require special attention such as septage, grease trap waste, dead animals and leachate." Comments 33.nd 22.

### III. Technical Issues

It was evident from comments presented at the public meeting held on May 24, 2007, that this facility already has a problem with surface water drainage. Accordingly, the New 330 rules should be used for erosion and sediment control in order to protect the surrounding properties. 30 TAC §§ 330.301 through 330.305. Comment 33.

It does not appear that compliance with requirements for non-erodible velocities, minimizing soil losses, and stability of final cover has been demonstrated. 30 TAC § 330.55(b)(5)(E), § 330.56(f)(4)(A)(vi), § 330.56(f)(4)(A)(vii), § 330.133(b), and/or § 330.55(f).

There is significant contradiction between various parts of the Amendment Application regarding cover inspection and erosion repair. 30 TAC § 330.113(b)(B). § 330.133(g), § 330.55(b)(1). Comment 34.

It is stated that the inspections for erosion of final and intermediate cover will occur only Monday through Friday, yet, the landfill would be permitted to operate 24 hours per day, 7 days a week. 30 TAC §§ 330.133, 330.55(b)(1). This is another reason not to authorize this landfill being open 24 hours per day, 7 days a week. Comments 31 and 34.

It is unclear whether the use of alternate daily cover is authorized by the permit amendment. Standard Permit Condition VIII, I. We regard alternate daily cover as unacceptable for this permit application and should be prohibited, primarily because of the severe violations of nuisance odor requirements. 30 TAC § 330.133 (a) and (c). Comment 31.

The onsite materials may be unsuitable for landfill construction purposes without specific information regarding the very high plasticity characteristics. It is also not clear from the application that the onsite soils can be successfully used for soil liner. 30 TAC § 330.56 (d) (5) (B). Comment 32.

The discussion regarding likely pathways of pollution migration does not address contaminant migration possible from the Waste Management site adjacent to the BFI site. 30 TAC § 330.56 (d) (5) (C) (iv). Comments 35 and 38.

The storage, treatment and disposal of contaminated water must be detailed in the application. There does not appear to be a description that demonstrates that the facility meets the criteria to ensure that runoff from daily cover is not potentially contaminated. 30 TAC § 330.56 (o) (1). Comment 36.

LaDonna Castañuela  
November 5, 2007  
p. 4

The SLQCP does not appear to address the specific conditions at this site. 30 TAC §§ 330.56(j) and 330.205. Comment 29.

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The leachate collection system may not work adequately because of problems related to the sump. It appears that leachate levels will accumulate above one foot on the liner and flood the waste above the pump. 30 TAC § 330.5 (e) (6) (A) (ii). Comment 35.

#### IV. Compliance History

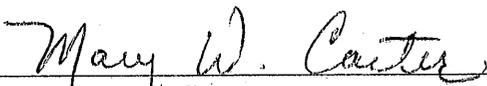
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Finally, we are still opposed to expansion of this landfill and dispute that the Application complies with applicable rules. Comment 1

Accordingly, we request a contested case hearing on behalf of the Northeast Neighbors Coalition.

Sincerely,

BLACKBURN CARTER, P.C.

by   
Mary W. Carter

From: Origin ID: FIVA (713)524-1012  
Vella Andaverde  
Blackburn Carter, P.C.  
4709 Austin

Houston, TX 77004



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**LaDonna Castanuela**  
TCEQ  
12100 Park 35 Circle

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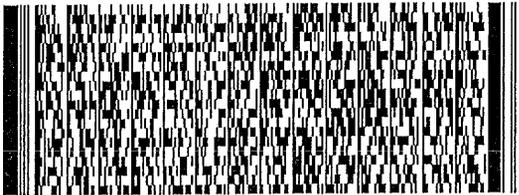
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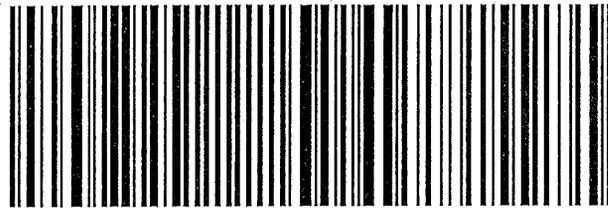
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**BLACKBURN CARTER**  
A Professional Corporation  
Lawyers

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jbb@blb.cblackburncarter.com  
Mary W. Carter  
mcarter@blackburncarter.com  
Charles W. Irvine  
charles@blackburncarter.com

*MSW*  
*51757*

H OPA  
NOV 05 2007  
BY *RJF*

4709 Austin  
Houston, Texas 77004  
Telephone (713) 524-1012  
Telefax (713) 524-5165  
www.blackburncarter.com

November 5, 2007

*Via Facsimile: (512) 239-3311  
and Federal Express*  
LaDonna Castañuela  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 NOV - 5 AM 10:06  
CHIEF CLERKS OFFICE

Re: BFI Waste Systems of North America, Inc.; Permit No. 1447A

Dear Ms. Castañuela:

This letter is being submitted on behalf of the Northeast Neighbors Coalition in response to the Executive Director's Response to Public Comment and the opportunity to request a contested case hearing dated October 5, 2007 from the Chief Clerk's Office. We are opposed to this proposed permit amendment, and we hereby request a contested case hearing on this application.

The Northeast Neighbors Coalition is non-profit corporation formed under the laws of the State of Texas. The purpose of the Northeast Neighbors Coalition is for "any lawful purpose or purposes not expressly prohibited under Chapters 2 or 22 of the Texas Business Organizations Code, including any purpose described by Section 2.002 of the Code." Section 2.002 of the Business Organizations Code states, the purpose or purposes of a domestic non-profit entity may include may one or more of the following purposes: serving charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, education, scientific, social, fraternal, athletic, aesthetic, agricultural and horticultural purposes;..."

The Northeast Neighbors Coalition's civic and educational purposes include organizing and educating neighbors who live in the vicinity of the proposed landfill expansion and who are affected by the proposed landfill expansion.

Ms. Evelyn Remmert is a member of the Northeast Neighbors Coalition. Ms. Remmert and her family own approximately 104 acres adjoining BFI's landfill on the north side of Blue Goose Road. Her address is 11815 Cameron Road, Manor, Texas 78653. Ms. Remmert is adversely affected by the proposed facility in a manner not common to the general public. She has a personal justiciable interest in this matter related to the economic interest in her property affected by the application. Neither the claim asserted nor the relief requested requires the participation of the individual members of the Northeast Neighbors Coalition.

*MSW*

LaDonna Castañuela

November 5, 2007

p. 2

I. Disputed Issues of Fact Relevant and Material to the Commission's Decision

Applicant Identification, Comment No. 5

We appreciate that the Executive Director has changed the Draft Permit to identify the applicant as BFI Waste Systems of North America, Inc. as the sole permittee, and to identify that BFI Waste Systems of North America, Inc. and Giles Holdings, L.P. are the property owners. This landfill, however, has a history of non-compliance with matters that directly impact the neighborhoods. The neighboring landfill, Waste Management Austin Community Landfill, also has a history of non-compliance with matters that affect the neighborhoods. Therefore, the neighbors must be sure there is a responsible entity for the operations at these landfills. The permittee must be responsible and responsive to the neighbors, without shifting responsibility to some other entity.

Permit Term, Comment No. 6

Although we still have concerns that this special provision will be honored in 2015, we are also gratified that a special provision has been included in the permit that specifies that BFI shall receive no waste after November 1, 2015. It must be understood by all parties that no amendments are allowed and no transfer station will be allowed at this site.

II. Land Use issues

Compatibility with Surrounding Community and Growth Trends, Comment 13.

The proposed permit amendment is not compatible with land use in the surrounding area. The adverse impact of this facility upon the community and group of property owners and individuals is unacceptable. Community growth patterns indicate that this is a rapidly growing residential area, incompatible with a nearly 200-foot tall landfill. Comments 17 and 14.

The character of the surrounding land uses within one mile of the proposed facility is generally residential and the growth trends of the nearest community are also residential. This expansion is in the community's preferred growth corridor designated as the "desired development zone." Expansion of a landfill is not compatible with these trends and growth patterns. 30 TAC §330.53(b)(8). Comments 13, 24, 26, 27, and 28.

Roads within a mile of the facility have not been fully identified by the applicant. Accordingly a reviewer cannot determine the adequacy of the access roads, availability of roads or volume of traffic. 30 TAC § 330.53(b)(9). Comment 20.

The draft permit authorizes this landfill to be open 24 hours a day 7 days a week which is unacceptable based on its proximity to residential neighborhoods. The landfill should be completely closed on Sundays, and closed from 9:00 p.m. to 5:00 a.m. nightly for all activities including waste acceptance, landfill construction and maintenance, waste composting and processing and the use of any heavy construction equipment. Comment 25.

(a) Donna Castañuela  
November 5, 2007  
p. 3

Because of the landfill's history of odor violations, the New 330 rules should be followed for odor control. 30 TAC § 330.149 requires that the site operating plan have an odor management plan that addresses the "sources of odors and includes general instructions to control odors or sources of odors. Plans for odor management must include the identification of wastes that require special attention such as septage, grease trap waste, dead animals and leachate." Comments 33 and 22.

### III. Technical Issues

It was evident from comments presented at the public meeting held on May 24, 2007, that this facility already has a problem with surface water drainage. Accordingly, the New 330 rules should be used for erosion and sediment control in order to protect the surrounding properties. 30 TAC §§ 330.301 through 330.305. Comment 33.

It does not appear that compliance with requirements for non-erodible velocities, minimizing soil losses, and stability of final cover has been demonstrated. 30 TAC § 330.55(b)(5)(E), § 330.56(f)(4)(A)(vi), § 330.56(f)(4)(A)(vii), § 330.133(b), and/or § 330.55(f).

There is significant contradiction between various parts of the Amendment Application regarding cover inspection and erosion repair. 30 TAC § 330.113(b)(B), § 330.133(g), § 330.55(b)(1). Comment 34.

It is stated that the inspections for erosion of final and intermediate cover will occur only Monday through Friday, yet, the landfill would be permitted to operate 24 hours per day, 7 days a week. 30 TAC §§ 330.133, 330.55(b)(1). This is another reason not to authorize this landfill being open 24 hours per day, 7 days a week. Comments 31 and 34.

It is unclear whether the use of alternate daily cover is authorized by the permit amendment. Standard Permit Condition VIII, I. We regard alternate daily cover as unacceptable for this permit application and should be prohibited, primarily because of the severe violations of nuisance odor requirements. 30 TAC § 330.133 (a) and (c). Comment 31.

The onsite materials may be unsuitable for landfill construction purposes without specific information regarding the very high plasticity characteristics. It is also not clear from the application that the onsite soils can be successfully used for soil liner. 30 TAC § 330.56 (d) (5) (B). Comment 32.

The discussion regarding likely pathways of pollution migration does not address contaminant migration possible from the Waste Management site adjacent to the BFI site. 30 TAC § 330.56 (d) (5) (C) (iv). Comments 35 and 38.

The storage, treatment and disposal of contaminated water must be detailed in the application. There does not appear to be a description that demonstrates that the facility meets the criteria to ensure that runoff from daily cover is not potentially contaminated. 30 TAC § 330.56 (o) (1). Comment 36.

LaDonna Castañuela

November 5, 2007

p. 4

The SLQCP does not appear to address the specific conditions at this site. 30 TAC §§ 330.56(j) and 330.205. Comment 29.

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The demonstration of no significant alteration of natural drainage patterns was based on a comparison of the existing permit with the proposed permit amendment rather than predevelopment conditions. 30 TAC §330.55(b) (5) (D), §330.56 (f) (2), and/or §330.56 (f) (4) (A) (iv). Comments 33 and 36.

The leachate collection system may not work adequately because of problems related to the sump. It appears that leachate levels will accumulate above one foot on the liner and flood the waste above the pump. 30 TAC § 330.5 (e) (6) (A) (ii). Comment 35.

#### IV. Compliance History

This Applicant's compliance history, specifically with regard to odor conditions, gas emissions, contaminated storm water, and the leachate collection system is a material and relevant issue. Comment 10.

Finally, we are still opposed to expansion of this landfill and dispute that the Application complies with applicable rules. Comment 1

Accordingly, we request a contested case hearing on behalf of the Northeast Neighbors Coalition.

Sincerely,

BLACKBURN CARTER, P.C.

by Mary W. Carter  
Mary W. Carter

# BLACKBURN CARTER

A PROFESSIONAL CORPORATION  
LAWYERS  
4709 AUSTIN  
HOUSTON, TEXAS 77004  
(713) 524-1012

## FAX TRANSMITTAL SHEET

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Date: November 5, 2007

Time: \_\_\_\_\_

To: LaDonna Castañuela

Office of the Chief Clerk

Fax No.: 512-239-3311

From: Mary W. Carter  
BLACKBURN CARTER, P.C.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 NOV -5 AM 10:05  
CHIEF CLERKS OFFICE

Client/Matter: Northeast Neighbors Coalition No. of Pages Including the Cover Sheet: 5

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**BLACKBURN CARTER**

A Professional Corporation  
Lawyers

James B. Blackburn, Jr.  
Mary W. Carter  
Charles W. Irvine

4709 Austin  
Houston, Texas 77004  
Telephone (713) 524-1012  
Telefax (713) 524-5165

*MSW*  
*51757*

June 28, 2007

*Via Facsimile (512) 239-3311 and Federal Express*

Ms. LaDonna Castañuela  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

OPA H  
JUL 02 2007  
BY *[Signature]*  
CHIEF CLERKS OFFICE  
2007 JUN 29 PM 2:40  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Re: BFI Waste Systems of North America, Inc., Proposed Permit Amendment  
No. 1447A

Dear Ms. Castañuela:

This comment letter is being submitted on behalf of the Northeast Neighbors Coalition in response to the Amended Notice of Application and Preliminary Decision issued April 24, 2007 and published May 17, 2007 in the Austin American Statesman regarding the above referenced permit amendment application. We understand the comment period has been extended until June 29, 2007. We are opposed to this proposed permit amendment, and we hereby request a contested case hearing on the matter.

The Northeast Neighbors Coalition consists of persons living near and affected by the proposed expansion. Evelyn Remmert is a member of the Northeast Neighbors Coalition. Ms. Remmert and her family own approximately 104 acres adjoining BFI's landfill on the north side of Blue Goose Road. Her address is 11815 Cameron Road, Manor, Texas 78653. She has a personal justiciable interest in this matter related to an economic interest in her property affected by the application.

This letter is also to submit public comments about relevant and material issues. It is our understanding that the "old" 330 Rules contained in 30 TAC §330 are applicable to this amendment application because the permit application was declared administratively complete prior to March 27, 2006. Our comments focus primarily on the old 330 Rules except in some important instances where the new 330 Rules should be required.

I. Applicant Identification

It appears from the amended notice published May 17, 2007, that there are two applicants for this permit amendment, BFI Waste Systems of North America, Inc., and Giles Holdings, L.P. There should be one applicant and one permittee, BFI Waste Systems of North America, Inc. There needs to be one entity responsible for the landfill and landfill operations. There needs to be one compliance history to review. There needs to be one entity answerable to the regulatory agencies, and to the neighbors for any infractions of the rules. This landfill has a history of non-compliance with matters that directly impact the neighborhoods. Therefore a situation where no

*MSW*

one entity is responsible is unacceptable. It appears from Attachment 9, dated May, 2006, the applicant statement is for BFI not Giles Holdings. There does not appear to be an applicant statement for Giles Holdings, L.P. nor is there anything in the application that indicates that BFI and Giles Holdings, L.P. are the same entity, or that BFI is authorized to act on behalf of Giles Holdings, L.P. 30 TAC § 330.56(i).

## II. Land Use Issues

The proposed permit amendment is not compatible with land use in the surrounding area. The adverse impact of this facility upon the community and group of property owners and individuals is unacceptable. Community growth patterns indicate that this is a rapidly growing residential area, incompatible with a nearly 200-foot tall landfill.

The character of the surrounding land uses within one mile of the proposed facility is generally residential and the growth trends of the nearest community are also residential. This expansion is in the community's preferred growth corridor designated as the "desired development zone." Expansion of a landfill is not compatible with these trends and growth patterns. 30 TAC §330.53(b)(8).

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Ms. Castañuela

June 28, 2007

Page 3

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Ms. Castañuela  
June 28, 2007  
Page 4

The leachate collection system may not work adequately because of problems related to the sump. 30 TAC § 330.5 (e) (6) (A) (ii).

IV. Expiration Date

Rather than a special condition regarding BFI's apparent willingness to cease operations on November 1, 2015, and prohibiting construction of a transfer station, this permit and amendment should expire on November 1, 2015 with no further amendments allowed, which should be enforceable by the TCEQ.

V. Compliance History

Finally, this Applicant's compliance history, specifically with regard to odor conditions, gas emissions, contaminated storm water, and the leachate collection system is a material and relevant issue.

Thank you for your consideration of these very important matters.

Sincerely,

BLACKBURN CARTER, P.C.

  
\_\_\_\_\_  
Mary W. Carter

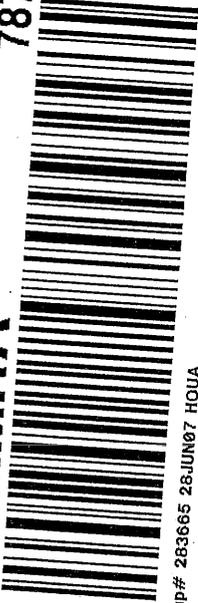


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AUS TX-US 78753



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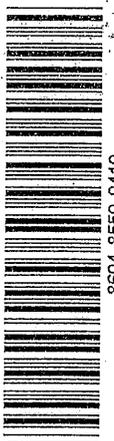
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**BLACKBURN CARTER**  
A Professional Corporation  
Lawyers

James B. Blackburn, Jr.  
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Charles W. Irvine

4709 Austin  
Houston, Texas 77004  
Telephone (713) 524-1012  
Telefax (713) 524-5165

*MSW*  
*31757*

June 28, 2007

*Via Facsimile (512) 239-3311 and Federal Express*  
Ms. LaDonna Castañuela  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

OPA *H*

JUN 28 2007

BY *[Signature]*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
CHIEF CLERK'S OFFICE  
JUN 22 11:53

Re: BFI Waste Systems of North America, Inc., Proposed Permit Amendment No. 1447A

Dear Ms. Castañuela:

This comment letter is being submitted on behalf of the Northeast Neighbors Coalition in response to the Amended Notice of Application and Preliminary Decision issued April 24, 2007 and published May 17, 2007 in the Austin American Statesman regarding the above referenced permit amendment application. We understand the comment period has been extended until June 29, 2007. We are opposed to this proposed permit amendment, and we hereby request a contested case hearing on the matter.

The Northeast Neighbors Coalition consists of persons living near and affected by the proposed expansion. Evelyn Remmert is a member of the Northeast Neighbors Coalition. Ms. Remmert and her family own approximately 104 acres adjoining BFI's landfill on the north side of Blue Goose Road. Her address is 11815 Cameron Road, Manor, Texas 78653. She has a personal justiciable interest in this matter related to an economic interest in her property affected by the application.

This letter is also to submit public comments about relevant and material issues. It is our understanding that the "old" 330 Rules contained in 30 TAC §330 are applicable to this amendment application because the permit application was declared administratively complete prior to March 27, 2006. Our comments focus primarily on the old 330 Rules except in some important instances where the new 330 Rules should be required.

I. Applicant Identification

It appears from the amended notice published May 17, 2007, that there are two applicants for this permit amendment, BFI Waste Systems of North America, Inc., and Giles Holdings, L.P. There should be one applicant and one permittee, BFI Waste Systems of North America, Inc. There needs to be one entity responsible for the landfill and landfill operations. There needs to be one compliance history to review. There needs to be one entity answerable to the regulatory agencies, and to the neighbors for any infractions of the rules. This landfill has a history of non-compliance with matters that directly impact the neighborhoods. Therefore a situation where no

*MSW*

Ms. Castañuela  
June 28, 2007  
Page 2

one entity is responsible is unacceptable. It appears from Attachment 9, dated May, 2006, the applicant statement is for BFI not Giles Holdings. There does not appear to be an applicant statement for Giles Holdings, L.P. nor is there anything in the application that indicates that BFI and Giles Holdings, L.P. are the same entity, or that BFI is authorized to act on behalf of Giles Holdings, L.P. 30 TAC § 330.56(i).

## II. Land Use Issues

The proposed permit amendment is not compatible with land use in the surrounding area. The adverse impact of this facility upon the community and group of property owners and individuals is unacceptable. Community growth patterns indicate that this is a rapidly growing residential area, incompatible with a nearly 200-foot tall landfill.

The character of the surrounding land uses within one mile of the proposed facility is generally residential and the growth trends of the nearest community are also residential. This expansion is in the community's preferred growth corridor designated as the "desired development zone." Expansion of a landfill is not compatible with these trends and growth patterns. 30 TAC §330.53(b)(8).

Roads within a mile of the facility have not been fully identified by the applicant. Accordingly a reviewer cannot determine the adequacy of the access roads, availability of roads or volume of traffic. 30 TAC § 330.53(b)(9).

The draft permit authorizes this landfill to be open 24 hours a day 7 days a week which is unacceptable based on its proximity to residential neighborhoods. The landfill should be completely closed on Sundays, and closed from 9:00 p.m. to 5:00 a.m. nightly for all activities including waste acceptance, landfill construction and maintenance, waste composting and processing and the use of any heavy construction equipment.

Because of the landfill's history of odor violations, the New 330 rules should be followed for odor control. 30 TAC § 330.149 requires that the site operating plan have an odor management plan that addresses the "sources of odors and includes general instructions to control odors or sources of odors. Plans for odor management must include the identification of wastes that require special attention such as septage, grease trap waste, dead animals and leachate."

## III. Technical Issues

It was evident from comments presented at the public meeting held on May 24, 2007, that this facility already has a problem with surface water drainage. Accordingly, the New 330 rules should be used for erosion and sediment control in order to protect the surrounding properties. 30 TAC §§ 330.301 through 330.305.

Ms. Castañuela  
June 28, 2007  
Page 3

It does not appear that compliance with requirements for non-erodible velocities, minimizing soil losses, and stability of final cover has been demonstrated. 30 TAC § 330.55(b)(5)(E), § 330.56(f)(4)(A)(vi), § 330.56(f)(4)(A)(vii), § 330.133(b), and/or § 330.55(f).

There is significant contradiction between various parts of the Amendment Application regarding cover inspection and erosion repair. 30 TAC § 330.113(b)(B), § 330.133(g), § 330.55(b)(1).

It is stated that the inspections for erosion of final and intermediate cover will occur only Monday through Friday, yet, the landfill would be permitted to operate 24 hours per day, 7 days a week. 30 TAC §§ 330.133, 330.55(b)(1). This is another reason not to authorize this landfill being open 24 hours per day, 7 days a week.

It is unclear whether the use of alternate daily cover is authorized by the permit amendment. Standard Permit Condition VIII, I. We regard alternate daily cover as unacceptable for this permit application because of the severe violations of nuisance odor requirements. 30 TAC § 330.133 (a) and (c).

The onsite materials may be unsuitable for landfill construction purposes without specific information regarding the very high plasticity characteristics. It is also not clear from the application that the onsite soils can be successfully used for soil liner. 30 TAC § 330.56 (d) (5) (B).

The discussion regarding likely pathways of pollution migration does not address contaminant migration possible from the Waste Management site adjacent to the BFI site. 30 TAC § 330.56 (d) (5) (C) (iv).

The storage, treatment and disposal of contaminated water must be detailed in the application. There does not appear to be a description that demonstrates that the facility meets the criteria to ensure that runoff from daily cover is not potentially contaminated. 30 TAC § 330.56 (o) (1).

The SLQCP does not appear to address the specific conditions at this site. 30 TAC §§ 330.56(j) and 330.205.

The landfill gas collection systems, are not protective of human health and the environment, because of the removal of gas monitoring probes between the BFI and Austin County Landfill boundary. 30 TAC § 330.56 (n) (1) (B).

The demonstration of no significant alteration of natural drainage patterns was based on a comparison of the existing permit with the proposed permit amendment rather than predevelopment conditions. 30 TAC §§ 330.55(b) (5) (D), § 330.56 (f) (2), and/or § 330.56 (f) (4) (A) (iv).

Ms. Castafuella  
June 28, 2007  
Page 4

The leachate collection system may not work adequately because of problems related to the sump. 30 TAC § 330.5 (e) (6) (A) (ii).

#### IV. Expiration Date

Rather than a special condition regarding BFI's apparent willingness to cease operations on November 1, 2015, and prohibiting construction of a transfer station, this permit and amendment should expire on November 1, 2015 with no further amendments allowed, which should be enforceable by the TCEQ.

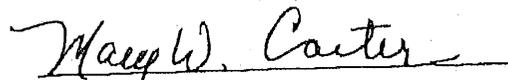
#### V. Compliance History

Finally, this Applicant's compliance history, specifically with regard to odor conditions, gas emissions, contaminated storm water, and the leachate collection system is a material and relevant issue.

Thank you for your consideration of these very important matters.

Sincerely,

BLACKBURN CARTER, P.C.

  
Mary W. Carter

# BLACKBURN CARTER

A PROFESSIONAL CORPORATION  
LAWYERS  
4709 AUSTIN  
HOUSTON, TEXAS 77004  
(713) 524-1012

## FAX TRANSMITTAL SHEET

CONFIDENTIAL: THIS MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. THIS MESSAGE CONTAINS INFORMATION FROM THE LAW FIRM OF BLACKBURN CARTER, P.C. WHICH MAY BE PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE, OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY AT OUR TELEPHONE NUMBER ABOVE. WE WILL PROMPTLY ARRANGE FOR THE RETURN OF THIS MESSAGE TO US AT NO INCONVENIENCE TO YOU.

Date: June 28, 2007

Time: \_\_\_\_\_

To: LaDonna Castañuela

Office of the Chief Clerk

Fax No.: 512-239-3311

From: Mary W. Carter  
BLACKBURN CARTER, P.C.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
JUN 28 11:11:53  
CHIEF CLERKS OFFICE

Client/Matter: Northeast Neighbors Coalition No. of Pages Including the Cover Sheet: 5

This transmittal is being forwarded to you in lieu of a hard copy. Please retain a copy for your records.

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Message: Comment Letter

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Telephone: (713) 524-1012

Telecopier: (713) 524-5165

Sent By: zba

*Done formal oral comment* (6)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

## BFI Waste Systems of North America, Inc. Proposed Permit MSW 1447A

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 MAY 25 AM 11:34  
CHIEF CLERKS OFFICE

PLEASE PRINT:

Name: MARY W. CARTER  
Address: 4709 AUSTIN ST.  
City/State: HOUSTON TX Zip: 77004  
Phone: (713) 524-1012

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? NORTHEAST NEIGHBORS COALITION

### IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*MW*

MSW  
51757

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV -5 PM 2:26

CHIEF CLERKS OFFICE



## NorthEast Action Group

Email: [nag290@aol.com](mailto:nag290@aol.com)

November 5, 2007

H OPA  
NOV 05 2007  
BY ky

LaDonna Castañuela  
Texas Commission on Environmental Quality  
Office of Chief Clerk, MC-105  
12100 Park 35 Circle  
Austin, Texas 78753

Re: Request for a contested case hearing  
Proposed Permit No. 1447A - BFI/Allied Waste/Sunset Farms Landfill

Dear Ms. Castañuela:

I am filing this request for a Contested Case Hearing on behalf of the NorthEast Action Group. One or more members of the group live within a mile or more of the facility and will be directly affected by the proximity of this expansion. The NorthEast Action Group has worked on landfill issues since its inception in 2000. Request is hereby made for a contested case hearing on the above referenced Permit No. 1447A by the NorthEast Action Group.

Reading the TCEQ's definition of an "affected" person on page 2 of the *Decision of the Executive Director* document, I personally feel that I have the "legal right" and "duty" to ask for a contested case hearing because I have lived in very close proximity of the above referenced landfill for the last 26 years that the facility has been in existence, up to August 10, 2007. I have worked arduously, almost on a daily basis on all aspects of the landfill issues surrounding this facility as evidenced in the Applicant's file, and Government officials as well as this Agency will support my constant involvement with this facility during the last nine years.

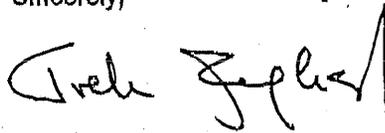
Additionally, because of my strong involvement with the BFI landfill, and other landfill issues, I am constantly being contacted by landfill neighbors and others on concerns and questions they may have regarding the operations of this facility. Therefore I feel that I will continue to be affected by the above referenced facility and its proposed vertical expansion. I personally request a contested case hearing on the above referenced Permit No. 1447A.

MSW

November 5, 2007  
La Donna Castañuela, Chief Clerk  
Page 2 of 9.

All of the findings of the Executive Director in Responses 1 through 44 are disputed because the questions and concerns from the public were not been properly addressed. The answers are unusually ambiguous, questionable, hypothetical, puzzling, robotic, purposely vague and misleading with more than one interpretation and not enough supporting data is given to substantiate the answer or the reasoning behind them. Attached are explanations for the responses we are disputing.

Sincerely,



B. Trek English  
3705 Toby Court  
Arlington, TX 76001  
512/477-4481  
Phone/Fax: 817/478-6198

Enc. Comments on disputed responses (7 pages)

**Response 1**

The Executive Director seems to be missing the point that the reason so many people are opposed to the expansion of the BFI facility is because the Operator is not properly complying with all statutory and regulatory requirements. The poor operation of this facility has cost a lot of money to the City of Austin, Travis County, the State of Texas, and most of all the taxpayers....

**Response 2**

The explanation given by the Executive Director is even more bizarre than the facts.

**Response 3**

BFI had the responsibility to make the necessary material to substantiate their position, intentions, and promises readily available to the people they claim they have been working with for the last six years: Travis County officials, City of Austin officials, and the neighborhood representatives, not just display the application at the public library.

**Response 4**

Almost a dozen people have been BFI representatives in the last five years and they have all disappeared. This is easily supported by watching replays of the hundreds of public meetings held to deal with the problems this facility has caused in this region. How long is Brad Dugas going to be employed by BFI?

**Response 5**

The Executive Director failed to identify which owner is going to be responsible for what, not only when the landfill is operating, but at closure and post-closure.

**Response 6**

At the public meeting, BFI stated unconditionally that it would cease accepting ALL waste on or before November 1, 2015 (including not pursuing a permit for a transfer station), so why is BFI pursuing a contractual agreement with Travis County that could potentially result with them not honoring their public statement? The Executive Director failed to identify how long after ceasing all acceptance of waste, BFI will close the facility permanently and why the language of "including no transfer station" was not added to the provision. While the rules may not require for a date to be specified for the last receipt of waste or initiation of final closure, the facts of this permit are different and the additional information should be inserted since all the conditions of the permit are contingent on BFI's proclamations that they will cease accepting all waste by an exact date and close the site.

**Response 7**

The Executive Director failed to note that the Applicant has on several occasions publicly asserted that it had sufficient capacity to operate until 2015; and since Applicant expressly stated that it will cease taking waste in 2015, this expansion is unnecessary.

**Response 8**

If no environmental impact study is required then the determination from the Executive Director that the expansion of this facility will not harm public health and the environment has no basis in fact and cannot override the many residents' complaints to the contrary.

**Response 9**

The response from the Executive Director is problematic and puzzling. Since Applicant has substantial remaining capacity under the old permit and the old rules, and new rules have been enacted, why would the expansion not be reviewed under these new rules since the final permit has not yet been granted? Is it because the BFI site could never meet the new rules? One has to constantly cite rules to regional inspectors to get them to take action. TCEQ will create a veritable quagmire with this old rules/new rules permit.

**Response 10**

**THE COMPLIANCE HISTORY ISSUE IS HIGHLY DISPUTED.** The response is downright an insult to all the work, data, and written documentation requested and submitted by neighboring residents to Region 11 and the TCEQ. Either the person who drafted this response lives in a cave or that person is unwilling to read the overwhelming amount of complaints filed by citizens and the resulting press coverage that has become an integral part of Travis County landfills' history in the last five years.

**Response 11**

See comment to Response 10

**Response 12**

When a problem arises at a landfill, the agency declares that the plan filed by the facility's engineer is faulty. The engineer is then quick to point out that the TCEQ approved the plan. So, does the Executive Director's answer make the TCEQ engineers responsible for this application?

**Response 13**

This is an example of a misleading answer. The required information regarding land use submitted by Applicant is not and was not current, nor accurate. **THE LAND USE ISSUE IS DISPUTED.**

**Response 15**

The answer from the Executive Director is disputed because it contradicts what the residents have been told over and over in the past few years by TCEQ Region 11 inspectors, government officials in charge of Blue Goose and its right-of-way, and by the Applicant itself.

The last sentence of the response is a farce in that a 50-foot buffer (which is smaller than my driveway) is totally inadequate to protect children at a nursery located almost across the road (within ½ mile) from the operations of this facility.

The Executive Director does not explain how such a miniscule buffer can control odors from a facility that will operate between 700 and 800 feet high up in the air.

Photographs have been submitted showing sedimentation and garbage on Blue Goose's right-of-way indicating that the buffer is not adequate to control runoff. THE BUFFER ZONE AND EASEMENTS ISSUE IS DEFINITELY DISPUTED.

**Response 16**

Please see comment to Response 1.

**Response 17**

We dispute the Executive Director's answer because landscaping at low elevations and at natural ground level and daily cover cannot possibly screen tons of garbage being dumped and bulldozed around at 800 feet above sea level. The Executive Director did not take into consideration the fact that the operations of the twin neighboring landfill have been seen from a major highway for the last three years and that this permit is proposing to rise 55 feet higher behind it. What a beautiful spectacle this will make for a major highway entrance to the City of Austin.

The amount of 10,630,000 cubic yards of landfill volume (including cover) is highly disputed because Applicant went to great length to explain publicly that the additional capacity requested would be 8,794, 967 cubic yards. They rounded the figure to 9,000,000 cubic yards for final contours and split level design concept. This is 1,630,000 cubic yards more than they stated they were requesting and a total contradiction to the claim they just made in a flyer blanketed to the neighborhoods just this last week that "the County required BFI/Allied Waste to make the landfill shorter, shallower, and smaller." How many misrepresentations can this Applicant get away with?

**Response 18**

We dispute Response 18 in that the TSWDA and the MSW Rules may be developed to protect human health and the environment but the numerous complaints filed against this facility in the last five years indicate that the Applicant is not operating his facility in a manner protective of human health and the environment.

The Executive Director did not substantiate how it was determined that the BFI landfill leachate or gas condensate is not ignitable, reactive, corrosive, or toxic, thereby non-hazardous.

**Response 19**

The Executive Director fails to address the fact that BFI has had automated radiation detection equipment installed at its landfill and it disconnected it because it kept going off too often. The Executive Director should know what the Commentor was referring to by "hazardous waste" if the Applicant's present permit was taken into consideration before granting the new permit.

**Response 20**

We dispute Response 20 in that the traffic issue is not properly presented in the Application, and relevant facts have been ignored or left out.

Does TCEQ have enforcement over unsafe operation of landfill trucks in Texas; and if so, where are the inspectors?

**Response 21**

We dispute Comment 21 in that the public was not able to comment on the details of the Site Operating Plan in this Permit because of the debacle with notification and obtaining records in time. The Executive Director failed to specify what revision to Section III.D was made to represent accurately the applicant's information regarding waste acceptance rates. What will be the rates of waste Applicant proposes to accept at this facility?

We dispute the minimal answer given by the Executive Director when addressing the fire protection plan in the old, pre-subtitle D areas of the landfill especially in view of the request by Applicant to place 75 feet of waste above them.

**Response 22**

We dispute Response 22 because the requirements for odor management at this facility are totally inadequate under the old rules or the new rules. Having odors wake a person up in his home in the middle of the night is not an indication that odors are adequately controlled. Reference to the TCEQ Region 11 office is again an insult.

We dispute the statement that Applicant claims that the facility ceased recirculating leachate in late 2001. We appreciate the Executive Director's decision to add a special provision specifying that leachate and gas condensate shall not be recirculated.

**Response 23**

Rule 30 TAC 330.117 requiring that the unloading of waste be confined to as small an area as "practical" is misleading and left to interpretation. How big of an area represents "practical"?

**Response 24**

The control of dust issue is highly disputed. The Application may comply with all applicable requirements regarding control of dust but the operator is not. The Executive Director must advise its Region 11 office that control of dust from stockpiles is prohibited by 330.5(a)(2), so that they can act on it.

**Response 25**

We dispute Response 25 in that the Executive Director did not properly respond to the concerns raised by the public about a 24/7 waste acceptance and operating hours of the existing facility. The new rules that BFI is avoiding has restrictions on the operating hours of a facility.

**Response 26**

We highly dispute the response that adequate provisions are provided in the SOP to control mud and dirt onto public roadways. This problem has been heavily documented and the provisions listed in the Application will not solve the existing problem.

**Response 27**

The response is heavily disputed because the Executive Director does not properly address how the Applicant proposes to clean up windblown waste and litter once a day for a distance of two miles

from the entrance, a procedure that has certainly not been followed under the present permit, at least not on a daily basis.

**Response 28**

We dispute the robotic language to Response 28. Concerns from the public about this issue are not being addressed.

**Response 29**

We highly dispute Response 29. "The methods used and documented in the application are generally accepted by the industry."! How many inventions has industry (in general) accepted that have turned out to be a problem. (Aluminum wiring immediately comes to mind).

Slope stability has not been properly addressed in this Application.

We also dispute the response because it doesn't specify the type of liner Applicant is planning on using in the future, how much of the present facility has performance design liners, how much of the present facility has fully compatible subtitle D liners, and how much of the present facility has no-liners or liners that do not meet industry standards or any of the federal guidelines.

**Response 30**

We highly dispute Response 30 because it does not address how the leachate will be managed in areas of the expansion above pre-subtitle D areas, and post-subtitle D areas. Again BFI filed early to avoid the new MSW rules that would have been more protective of human health and the environment.

**Response 32**

We highly dispute Response 32. It is now apparent that the Applicant has exceeded the permitted height and TCEQ allowed this procedure because it intended to grant this expansion permit even before it was filed or reviewed. Reports have been made to Region 11 about the nuisance created by the erosion of dust and sediment from the stockpiles and the Region 11 inspectors referred us back to the Permit department. Again, as in Response 24, the dust issue has not been properly addressed by the Executive Director, and the agency should not have to wait for another year for the new rules to apply to this permit if the operator is in direct violation of the Clean Air Act, or other pertinent existing rule.

**Response 33**

The response to the Drainage and Erosion Controls is highly disputed because drainage is presently a problem at this site and will remain a problem in view of the fact that the permit will allow the facility to continue growing vertically for another 75 feet . Applicant has not really demonstrated how it will address the existing problem and the ensuing future drainage problems in a site that is so restricted geographically.

**Response 34**

The response does not address the extent of the damage required for the Applicant to remedy the erosion of cover on the same day. How many days will Applicant be allowed in the case of a slope failure? (An event which has occurred in the past). This is again a problem related to Response 33.

**Response 35**

Several of the statements in this response are disputed because they contradict statements made in the prior responses and are really confusing. What is the Applicant proposing to do?

**Response 36**

This answer is highly disputed because it is also related to the drainage problems that this site has incurred over and over in the recent past.

**Response 37**

This response does not address how the operator is proposing to retain slope stability and vegetative soil cover.

**Response 38**

This response is highly disputed because several of the statements are contradictory and incomplete. The Executive Director does not address how changes that were identified in past testing of monitoring wells were demonstrated to be due to natural variation in groundwater quality. Municipal water systems may be enclosed in tanks and pipes but, as evidenced on several occasions, pipes crack due to the geology of the soil in the area.

**Response 39**

This response is totally inadequate because of the severe problem the facility has had and continue to have with odors and gas management control. Several statements in this response contradict statements made in previous responses, and some are totally inaccurate.

**Response 40**

We dispute this response because it is a total fairy tale. The Wetlands area has been damaged beyond repair as documented with the TCEQ.

**Response 41**

This response is disputed because it is in contradiction to Response 38. If we are to understand this response, a landfill is only required to provide financial assurance to close their facility but not to clean up (as is commonly believed by the public) unless a release occurs. So, if a facility cannot provide financial assurance to cover the cost of performing a corrective action, who pays for the cleanup? The taxpayers?

**Response 42**

The TCEQ should require, not just encourage, source reduction, reuse and recycling. This is 2007, not the dark ages.

November 5, 2007  
La Donna Castañuela, Chief Clerk  
Page 9 of 9.

**Response 43**

Since this permit includes a date certain for closure, Post closure care and use of land after closure should be required.

**Response 44**

We appreciate the changes made to the Permit by the Executive Director.

**Submitted by B. Trek English**

HR

DATE: May 24, 2007

TO: La Donna Castañuela, Office of the Chief Clerk  
Texas Commission on Environmental Quality  
MC-105, P.O. Box 13087  
Austin, Texas 78711-3087

Mr. Glenn Shankle, Executive Director  
Texas Commission on Environmental Quality  
MC-109, P.O. Box 13087  
Austin, Texas 78711-3087

FROM: B. Trek English, NorthEast Action Group  
3616 Quietie Drive, Austin, Texas 78754  
Tel: 512/929-0970 // Fax: 512/933-1926  
Email: nag290@aol.com

RE: SUNSET FARMS LANDFILL, Permit No. 1447 and Proposed 1447-A  
BFI WASTE SYSTEMS OF NORTH AMERICA, INC.  
And GILES HOLDINGS, L.P.

H OPA RECEIVED  
MAY 24 2007  
AT PUBLIC MEETING  
CHIEF CLERKS OFFICE  
MAY 25 AM 11:37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

We are totally and categorically opposed to the Application for Expansion of the Sunset Farms Landfill, Permit No. 1447-A, filed by BFI Waste Systems of North America, Inc. and Giles Holdings, L.P,

Following are initial comments on the Amendment Application along with a request that the Executive Director move for a direct referral for a contested case hearing on this Amendment Application and the draft permit issued on April 24, 2007.

The Draft Permit failed to consider that almost a thousand complaints have been filed against this giant landfill. Therefore, the decision to increase the environmental dangers of concentrating a region's waste in an area that is already saturated with almost 800 acres of 30-year old garbage and 21,000 barrels of toxic waste is truly unconscionable and not indicative of an agency created to protect human health and the environment.

Applicant has failed to protect human health and the environment. Investigations of this facility conducted in the last five years by the TCEQ have established ongoing solid and hazardous waste violations, including unauthorized emissions of landfill gases, failure to properly maintain gas wells, failure to properly handle and dispose of leachate, failure to properly operate leachate extraction pumps, failure to control

MW

erosion of slopes, and failure to maintain drainage ditches and sedimentation structures.

How is the Applicant proposing to specifically protect human health and the environment?

### Environmental Impact

The proposed expansion would make the Sunset Farms landfill the most visible structure and the highest point in the northeast landscape. This would have a significant impact on the nearby residents and their quality of life.

The proposed Application is inadequate in that it fails to assess all the real-life impacts that would result from the proposed landfill expansion combined with the impacts from the waste-to-energy facility, the traffic and pollution from vehicles traveling on the new and projected roads and highways, and other adjacent impacts that would adversely affect the nearby residential properties, the children at the day care center and the Bluebonnet Elementary School.

The proposed Application also fails to specifically and properly address greater potential impacts associated with this colossal proposed 75-foot expansion, such as: land use compatibility, aesthetics, air quality, increased truck traffic created by the increased waste intake, noise and vibration, slope stability, site hydrology, groundwater quality, cultural, scientific and biological resources.

Potential excessive noise generated from operating machinery 24 hours a day at the altitude of the proposed Landfill height expansion has not been sufficiently evaluated and addressed in the application.

Additionally, further evaluation of potential impacts associated with the landfill activities from the facility located directly south of the site, their proposed expansion filed with TCEQ in 2005, their future waste-to-energy facility, and their increased truck traffic, were not evaluated in this application. Was a hydrogeological study ever performed to identify the potential impacts associated with the lack of separation between the Sunset Farms Landfill and the Austin Community Landfill? If not, why not?

Were any recent environmental assessments conducted for the Site and surrounding areas relative to the gigantic proposed vertical expansion of the Landfill with ongoing site operations to ensure that all potential impacts and associated mitigating measures were appropriately identified and addressed? Did TCEQ consider these environmental impact studies when reviewing the proposed permit Application? Which studies were considered? Have these studies been filed with this Application?

### Application Materials

Not a single copy of the Application for expansion dated August 1, 2005 was made available by the Applicants to anyone living in the adjacent neighborhoods surrounding the landfill. The newspaper notice said that a copy was placed at the Loyola Library in the City of Austin for public viewing. However, many of the residents affected by this expansion who live in the ETJ, on the outskirts of the city, do not have free access to the City of Austin Public Libraries. None of the additional revisions dated May 8, 2006, August 22, 2006, November 10, 2006, January 18, 2007, February 12, 2007, and March 14, 2007, were made available to the public by the Applicants. It is difficult for the public to find these materials if they do not know about them or if the materials are kept in the files of the reviewing staff. Why was Applicant not required to provide these documents on their website?

The maps filed with the Application are old maps that do not properly reflect the present surrounding land use or the purchases that have been made within the facility. Will TCEQ require Applicant to update the maps with relevant and actual data?

#### Notice

Notification of this permit application was just a mass confusion. The original notice was never received. The Amended Notice was received almost two weeks after the notice appeared in the American Statesman, on May 7, 2007. An Amended Notice appeared in the American Statesman on May 17, 2007. The public still does not know when the public comment period ends on this Application.

The notice is inadequate and deficient in that it is vague and fails to properly identify the location and proper size of the proposed expansion. It is also deficient in that it was posted as an Amended Notice without stating what part of the notice or the Application was amended.

The Notice lists two entities as applying for this Amendment Application but fails to identify which role the entities will play. Will BFI Waste Systems and Giles Holdings be considered joint permit holders?

#### History of the Site and Ownership of the Facility

Who really owns the permit for the Sunset Farms Landfill, Permit No. 1447?

The original owners of Sunset Farms Landfill were Tiger Corporation and Browning Ferris Industries. Does the Tiger Corporation own any part of the landfill at this time?

The Travis County Appraisal District shows Mobley Chemicals, Inc. as the owner of the land for the Sunset Farms Landfill? Does Mobley Chemicals Inc. still own the land? Does Mobley Chemicals, Inc. own any part of the landfill?

Giles Holdings, L.P. (or Giles) is now filing for this Amendment Permit. Who is Giles Holdings, L.P.? If Giles is filing as the owner, what does Giles own? The permit, the landfill, or the land? When did Giles Holdings, L.P. acquire it? And from whom? Is Giles Holdings a part of BFI Waste Systems? Or is BFI a part of Giles Holdings, L.P.?

Since BFI has acquired land from Giles Holdings, L.P., then is BFI the owner too? What is the role of BFI as a land owner?

What is the relationship between Browning Ferris, Inc. and BFI Waste Systems of North America, Inc.?

Allied Waste merged with BFI in 1999, why is this site still owned by BFI Waste Systems? How many other sites does BFI Waste Systems operate? What is the relationship between Allied Waste and BFI Waste Systems of North America, Inc.?

BFI's registered address has changed from Phoenix, Arizona, to Buda, TX, to San Antonio, TX in the recent past. Is BFI a moving target?

Who will own the proposed Permit No. 1447A?

Who will have primary responsibility for the operations of the landfill and for keeping this facility in compliance and prevent incidents such as those that occurred in the past few years and resulted in violations? What role will Giles Holdings, L. P. have in the full spectrum of the landfill operations of this facility?

Who will be responsible for the violations that may be issued in the future? Who will be paying the penalties, if any are assessed?

Who is the party responsible for the Gas-to-Energy facility located on the BFI site? Is this a third party to this landfill scenario?

#### Land Use and Location of the Facility

As per the Applicant's application, the landfill is located in Travis County and the City of Austin. The operations of this large landfill contiguous with another large landfill facility are no longer compatible in this area only eight miles from downtown Austin.

The BFI/Sunset Farms Landfill operations have exceeded the intended scope of their original permit issued almost three (3) decades ago. The Sunset Farms Landfill is operating under a LAND USE permit issued in 1981 with limited specifications and conditions. The land use in 2007 is no longer suited for the operations of a landfill, especially one of that magnitude. Therefore, an expansion of this facility in this very urban and heavily populated area of the City of Austin is totally unacceptable and should be denied.

The location of the BFI/Sunset Farms Landfill is inaccurate in the Draft Permit issued by the Executive Director.

The Application for the expansion of the BFI/Sunset Farms landfill does not provide for substantial landscape to screen the proposed towering monstrosity from the major highways, roads, and homes within at least a five mile area. To date, this 25-year old 700-foot-high landfill resembles a lunar landscape. How will Applicant screen their landfill activities as they escalate to 795 feet?

Among the many discrepancies in the Application, Applicant states that the 54.1 acres purchased by BFI from Giles Holdings, L.P. are outside the permitted footprint of the landfill. (p.38). However, in its "Property Owner Affidavit", Applicant states that it will file a revised affidavit to the public advising that the tract of land has been used for a solid waste facility. (p. 102). Is the land part of the waste disposal area? Will the land be part of the waste disposal area?

We have been informed that Heath Eddlebutte is no longer associated with this landfill, yet he signed the Application for Expansion. If he is no longer in charge of the facility, who is? Has the Application been amended? Who signed the new Affidavit?

What is the equivalent in acres for the proposed expansion?

Where are the boundaries of the site on the northern portion of the site? How much of Blue Goose Road is part of the landfill buffer? Can Applicant provide a map showing the exact size and location of their buffers?

Additional comments will be submitted regarding the deficiencies in the Application, of the Compliance History, the Traffic Assessment Study, the Groundwater Monitoring System and Potential Groundwater Contamination, the Leachate Collection System, Liners, Gas collection system and Release of Emissions and Contaminants beyond the boundaries of the facility, Fire Protection plan, Soil Cover Plan, Waste Acceptance Rate, Facility Operating Hours, Control of Windblown Waste, Buffer Zones, Disease Vector Control, Landfill Cover, Disposal of MSW Wastes and Compaction of Wastes, Disposal of Sludge and/or Liquid Wastes, Disposal of Industrial Wastes, Disposal of Special Wastes and Contaminated Wastes, Disposal of Asbestos, Prohibited Wastes, Radioactive Wastes, Working faces, Facility Design, Construction, and Operation, Surface Water Drainage, Sedimentation and Erosion Controls, Protection of Wetlands and Floodplain areas, Unauthorized Discharge to creeks and recreational lake areas, Interference with Wildlife habitats, Financial Assurance, Facility Closure, and any other issue that will threaten human health and the environment of our residents.

Due to the poor compliance history, the Application should have required close scrutiny and additional specification of the proposals and information submitted by the Applicant. The Sunset Farms landfill has created a nuisance condition and continues to fail to control odors, vectors, and stormwater runoff and is therefore incompatible with the rules and laws of the State of Texas. The Application for Expansion of this landfill should be denied.



Since present regulations allow an unlimited number of 'conditionally exempt small generators' of hazardous waste to have access to municipal landfills and because municipal landfills can accept hazardous waste under federal law and special permits granted by the Agency, all municipal landfills, their leachate, and air emissions should be classified as hazardous facilities.

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How is BFI going to provide adequate slope protection, effective erosion and sediment control, adequate storm drain inlet protection on adjacent roads, and retain all runoff water on site? This water is polluted regardless of what BFI states, especially when garbage is floating in it.

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Because the shallow groundwater table is ephemeral, and the mixed design of pre-Subtitle D and post-Subtitle D cells at this landfill, an expanded groundwater monitoring plan should be required of this site to evaluate potential contaminant migration. Applicant may not be testing in the right groundwater zone. Has Applicant been made to demonstrate where the correct zone to detect contaminants is at this site? Is the proposed screening of the wells adequate? Should BFI screen some of the wells at a longer length (20 feet) to avoid dilution and detect possible contamination migration?

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To date, Applicant has never been made to test the waters in the neighboring creeks and lakes. Why? How is Applicant going to adequately prevent continuing contamination from entering these streams and lakes?

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Will surface water sampling be analyzed for the same parameters as the groundwater monitoring wells? Unfiltered water samples should be used and BFI should be made to test for total metals in their groundwater sampling and in their surface water sampling, not just dissolved metals.

The present testing of outfalls is not representative of the conditions at the site, and Applicant has received violations for this lack of proper monitoring. Unannounced visits to the site and access to operating records should be ordered to prevent this unacceptable practice to continue.

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Methane gas migration that can occur in pathways through clay soil fractures during periods of severe drought, or through utility corridors remains a main concern at this site. This situation represents an explosion risk to site workers and nearby residents and is not properly addressed in this Application.

#### Deficiency in the transportation plan

With an additional 10 million cubic yards of space, how many transport trailer loads will this involve per day?

Transfer trailers are the 18-wheelers that hold a minimum of 80,000 pounds that arrive on Giles Road from various parts of the country. Since not one local authority ever checks on these vehicles, one can only imagine the actual load that is being transported over our neighboring roads and highways!

How many additional loads per day of commercial trucks (both roll-off and packer trucks) does BFI anticipate it will take to fill that 75 foot of space before November 1, 2015?

How many local commercial trucks and private trucks (pickups, flat beds, and hitch trailers) will be coming to this landfill every day?

BFI failed to identify all the roads presently used by their vehicles to access the landfill within a two mile radius of the facility.

BFI failed to identify round trips of the real number of trucks loaded with waste that will be coming to their landfill and the adjacent landfill if the limited time expansion is granted.

BFI also failed to explain how it will and all the vehicles coming to their landfill will continue to access the facility when the construction of Highway 290 East begins.

### Dirt Mountains

Who permitted those dirt mountains? Where are they allowed under the old rules or the new rules? What permit was obtained to stockpile that many dirt mountains? How high are they? Applicant had stated that they had already used up their 10 foot expansion and had reached their 720 feet permitted height at a public meeting – so, is the dirt stockpiled above their permitted height? This practice is totally unacceptable, if not dangerous. Has Applicant demonstrated that the weight of these huge mountains of soil is not destroying the integrity of the cap? Why is BFI not made to prevent erosion and drainage problems on the stockpiles of soil also?

### Design of the Facility

How is BFI going to avert a slope failure like the one in 2001 in response to a major rain event that might be otherwise expected? Because of the saturation process in response to typical rainstorms, slope instability may result in a landslide.

What methods were used to calculate changes in the factor of safety for slopes during typical rainstorms versus major rain events? In a worst hydraulic condition, how is the saturation process and pressure distribution calculated for slope stability?

Has BFI demonstrated that the weight of the additional waste will not cause problems with the present infrastructure of gas collection pipes and/or leachate collection pipes?

How does the BFI's facility impact the facility next door? How does it impact their groundwater and/or their surface water?

Large Natural recorded wetlands were located in the northeast portion of the site. Why was Applicant allowed to destroy the natural wetlands without a proper federal permit and without proper mitigation?

How is BFI ensuring that the liner system is built on a slope that will promote positive drainage across the liner surface in new areas of the landfill?

Presently, BFI cannot adhere to a SMALL working face and offers a hideous spectacle to nearby residents and operating businesses in the area. This is obviously an error in the design, construction and operation of this facility. How is this situation going to improve with the additional height requested that would make them visible from major highways in the northeast quadrant of the city, i.e., Highway 290E, Highway 183, Parmer Lane, Dessau Road, IH35, etc.?

The daily waste acceptance rate can be changed without input from the public through a permit modification. Because of the activities from two facilities, the nuisance conditions of noise, odors, intrusive lighting, dust, litter, and emissions have reached unhealthy levels. The amount of daily waste accepted at this location should be severely limited at this facility by limiting the hours of operation between the hours of 6 AM and 6 PM and the landfill should be made to remain closed on weekends.

Additionally, severe restrictions should be placed on acceptance of Sludge/and or Liquid Wastes, industrial wastes, special wastes, contaminated soils, asbestos, and prohibited wastes shipped to this location from across the State and possibly the Country. All permits for these wastes should be denied because of the size of this facility in relation to its buffers, and the proximity of school children, school yards, residences, and thousands of people working at facilities very close to the boundaries of the site. BFI should be made to install special equipment so that all incoming loads can be screened for radio active material:

Has BFI ever received dangerous material during the last 26 years of the operation of this landfill? If so, please describe when this occurred and what was received? Was the material within the permitted waste stream? What was the disposition of that material?

Greater potential impacts can be identified with this colossal 75-foot proposed vertical expansion. The methods proposed in this application are inadequate and vague. What measures will the Applicant use to mitigate or prevent the following?

- Excess noise carried further from operating machinery 24/7 at a higher altitude
- Potential fires occurring in the old pre-Subtitle D cells
- Groundwater pollution from the additional height and weight of the landfill.
- Windblown waste leaving the landfill working face at the higher altitude
- Windblown waste from untarped vehicles traveling to the working face
- Odors caused by the decomposition of new waste piled on top of 20 year-old waste
- Odors caused by the ever increasing landfilling of odorous wastes
- Odors caused by the lack of substantial daily cover
- Significant long term increases in regional criteria air pollutants
- Increases in on-site fugitive dust and mobile source emissions
- Increase in Toxic Air Contaminants
- Excessive dust created by the multitude of trucks traveling on unpaved roads leading to the working face and untarped soil stockpiles
- Birds, rodents and insects that transmit disease-producing organisms to nearby school children, humans and pets living in nearby residences
- Interference with wildlife habitats caused by the landfill activities at a higher altitude
- Poisoning and loss of wildlife caused by the frequent uses of pesticides and rodenticides
- Surface water sedimentation and stormwater flows
- Threats to human health and the environment of our residents

The language used in the various sections of this proposed Application is inconsistent, vague, and lacks specificity as to how Applicant will specifically address and remedy the problems the facility is presently experiencing or will experience in the future.

Further BFI does not have adequate financial assurance should a release occurs because of its proximity to the adjoining facility and the lack of space to access the site without a major cleanup.

BFI has stated publicly and in writing to CAPCOG (to obtain their conditional conformance) that they will cease taking waste on November 1, 2015 regardless if they have a new site permitted, or sooner if they have permitted a new site. However, the final closure plan does not reflect this position, nor does it entertain a lengthy and comprehensive way on how and when BFI will proceed to completely close the facility after November 1, 2015. BFI shall begin closure of the Sunset Farms Landfill within thirty (30) days of the final receipt of waste, form a closure committee of local residents and governments, and submit possible future uses of the site for the nearby residents?

The Texas Commission on Environmental Quality continues to fail to seriously consider the compliance history of this facility and track changes in the quality of the environment of the northeast quadrant of the city of Austin in relation to current human exposures to contamination as the northeast landfills grow bigger and higher, and the possible migration of contaminated groundwater. Most particularly, the Commission fails to take into consideration the exposure for human receptors to contaminants in concentrations in excess of appropriate risk-based levels that can be reasonably expected under the current scenario of two huge regional landfills operating independently but simultaneously.

Further, the Commission totally fails to take into consideration the significant future increase in exposure to contaminant concentrations above the acceptable "levels" to human or ecological receptors, if these landfills are expanded. Please note that this scenario of three landfills emissions plus an industrial waste unit of 21,000 barrels with solid waste buried on top of it is not replicated anywhere in the State of Texas and should not be allowed to continue to expand.

This Application Amendment for Expansion of the Sunset Farms Landfill must be denied because it is not protective of human health and the environment.

MSW  
51757

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

DATE: June 29, 2007

JUN 29 PM 3:11

TO: La Donna Castañuela, Office of the Chief Clerk  
Texas Commission on Environmental Quality  
MC-105, P.O. Box 13087  
Austin, Texas 78711-3087

CHIEF CLERKS OFFICE

Mr. Glenn Shankle, Executive Director  
Texas Commission on Environmental Quality  
MC-109, P.O. Box 13087  
Austin, Texas 78711-3087

OPA

JUL 02 2007

BY

*[Signature]*

FROM: B. Trek English, NorthEast Action Group  
3616 Quietie Drive, Austin, Texas 78754  
Tel: 512/929-0970 // Fax: 512/933-1926  
Email: nag290@aol.com

RE: SUNSET FARMS LANDFILL, Permit No. 1447 and Proposed 1447-A  
BFI WASTE SYSTEMS OF NORTH AMERICA, INC.  
And GILES HOLDINGS, L.P.

Our residents are totally and categorically opposed to the Application for Expansion of the Sunset Farms Landfill, Permit No. 1447-A, filed by BFI Waste Systems of North America, Inc. and Giles Holdings, L.P because it is not protective of human health and the environment as evidenced by the testimony from residents at the public meeting of May 24, 2007.

The following comments are in supplement to the initial comments filed on May 24, 2007 on the above referenced Amendment Application.

The primary issue in this permit is whether the Executive Director of the Texas Commission on Environmental Quality has made an explicit determination that the proposed facility poses "no substantial present or potential danger to human health or the environment" based on the deficient data provided in this Amendment Application for expansion of the above referenced waste disposal facility. The Draft Permit fails to asses at all the "real-life" cumulative impacts that would result from the proposed landfill expansion combined with the other neighboring facility.

The proposed Application for Expansion is deficient in all its parts under the old Chapter 330 Rules. The rewrite of these rules started in 2004, before this application was filed. BFI worked arduously at impeding the language of the new rules while rushing to file their deficient application before the new rules were adopted. Therefore, BFI's application must be reviewed under the new rules now, not later. It is downright criminal for these giants of the industry, who were given preferential status in the early 90s to become regional landfills because they had the finances to meet the new federal Subtitle D rules, to again pass under the radar and expand their old pre-subtitle D cells, and circumvent the new 330 rules. The Texas Commission on Environmental Quality, the largest environmental agency in the world after the EPA, must stop this vicious circle now and deny this Application.

*MSW*

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With an additional 10 million cubic yards of space, how many transport trailer loads will this involve per day?

Transfer trailers are the 18-wheelers that hold a minimum of 80,000 pounds that arrive on Giles Road from various parts of the country. Since not one local authority ever checks on these vehicles, one can only imagine the actual load that is being transported over our neighboring roads and highways!

How many additional loads per day of commercial trucks (both roll-off and packer trucks) does BFI anticipate it will take to fill that 75 foot of space before November 1, 2015?

How many local commercial trucks and private trucks (pickups, flat beds, and hitch trailers) will be coming to this landfill every day?

BFI failed to identify all the roads presently used by their vehicles to access the landfill within a two mile radius of the facility.

BFI failed to identify round trips of the real number of trucks loaded with waste that will be coming to their landfill and the adjacent landfill if the limited time expansion is granted.

BFI also failed to explain how it will and all the vehicles coming to their landfill will continue to access the facility when the construction of Highway 290 East begins.

### Dirt Mountains

Who permitted those dirt mountains? Where are they allowed under the old rules or the new rules? What permit was obtained to stockpile that many dirt mountains? How high are they? Applicant had stated that they had already used up their 10 foot expansion and had reached their 720 feet permitted height at a public meeting – so, is the dirt stockpiled above their permitted height? This practice is totally unacceptable, if not dangerous. Has Applicant demonstrated that the weight of these huge mountains of soil is not destroying the integrity of the cap? Why is BFI not made to prevent erosion and drainage problems on the stockpiles of soil also?

### Design of the Facility

How is BFI going to avert a slope failure like the one in 2001 in response to a major rain event that might be otherwise expected? Because of the saturation process in response to typical rainstorms, slope instability may result in a landslide.

What methods were used to calculate changes in the factor of safety for slopes during typical rainstorms versus major rain events? In a worst hydraulic condition, how is the saturation process and pressure distribution calculated for slope stability?

Has BFI demonstrated that the weight of the additional waste will not cause problems with the present infrastructure of gas collection pipes and/or leachate collection pipes?

How does the BFI's facility impact the facility next door? How does it impact their groundwater and/or their surface water?

Large Natural recorded wetlands were located in the northeast portion of the site. Why was Applicant allowed to destroy the natural wetlands without a proper federal permit and without proper mitigation?

How is BFI ensuring that the liner system is built on a slope that will promote positive drainage across the liner surface in new areas of the landfill?

Presently, BFI cannot adhere to a SMALL working face and offers a hideous spectacle to nearby residents and operating businesses in the area. This is obviously an error in the design, construction and operation of this facility. How is this situation going to improve with the additional height requested that would make them visible from major highways in the northeast quadrant of the city, i.e., Highway 290E, Highway 183, Parmer Lane, Dessau Road, IH35, etc.?

The daily waste acceptance rate can be changed without input from the public through a permit modification. Because of the activities from two facilities, the nuisance conditions of noise, odors, intrusive lighting, dust, litter, and emissions have reached unhealthy levels. The amount of daily waste accepted at this location should be severely limited at this facility by limiting the hours of operation between the hours of 6 AM and 6 PM and the landfill should be made to remain closed on weekends.

Additionally, severe restrictions should be placed on acceptance of Sludge/and or Liquid Wastes, industrial wastes, special wastes, contaminated soils, asbestos, and prohibited wastes shipped to this location from across the State and possibly the Country. All permits for these wastes should be denied because of the size of this facility in relation to its buffers, and the proximity of school children, school yards, residences, and thousands of people working at facilities very close to the boundaries of the site. BFI should be made to install special equipment so that all incoming loads can be screened for radio active material.

Has BFI ever received dangerous material during the last 26 years of the operation of this landfill? If so, please describe when this occurred and what was received? Was the material within the permitted waste stream? What was the disposition of that material?

Greater potential impacts can be identified with this colossal 75-foot proposed vertical expansion. The methods proposed in this application are inadequate and vague. What measures will the Applicant use to mitigate or prevent the following?

- Excess noise carried further from operating machinery 24/7 at a higher altitude
- Potential fires occurring in the old pre-Subtitle D cells
- Groundwater pollution from the additional height and weight of the landfill.
- Windblown waste leaving the landfill working face at the higher altitude
- Windblown waste from untarped vehicles traveling to the working face
- Odors caused by the decomposition of new waste piled on top of 20 year-old waste
- Odors caused by the ever increasing landfilling of odorous wastes
- Odors caused by the lack of substantial daily cover
- Significant long term increases in regional criteria air pollutants
- Increases in on-site fugitive dust and mobile source emissions
- Increase in Toxic Air Contaminants
- Excessive dust created by the multitude of trucks traveling on unpaved roads leading to the working face and untarped soil stockpiles
- Birds, rodents and insects that transmit disease-producing organisms to nearby school children, humans and pets living in nearby residences
- Interference with wildlife habitats caused by the landfill activities at a higher altitude
- Poisoning and loss of wildlife caused by the frequent uses of pesticides and rodenticides
- Surface water sedimentation and stormwater flows
- Threats to human health and the environment of our residents

The language used in the various sections of this proposed Application is inconsistent, vague, and lacks specificity as to how Applicant will specifically address and remedy the problems the facility is presently experiencing or will experience in the future.

Further BFI does not have adequate financial assurance should a release occurs because of its proximity to the adjoining facility and the lack of space to access the site without a major cleanup.

BFI has stated publicly and in writing to CAPCOG (to obtain their conditional conformance) that they will cease taking waste on November 1, 2015 regardless if they have a new site permitted, or sooner if they have permitted a new site. However, the final closure plan does not reflect this position, nor does it entertain a lengthy and comprehensive way on how and when BFI will proceed to completely close the facility after November 1, 2015, BFI shall begin closure of the Sunset Farms Landfill within thirty (30) days of the final receipt of waste, form a closure committee of local residents and governments, and submit possible future uses of the site for the nearby residents?

The Texas Commission on Environmental Quality continues to fail to seriously consider the compliance history of this facility and track changes in the quality of the environment of the northeast quadrant of the city of Austin in relation to current human exposures to contamination as the northeast landfills grow bigger and higher, and the possible migration of contaminated groundwater. Most particularly, the Commission fails to take into consideration the exposure for human receptors to contaminants in concentrations in excess of appropriate risk-based levels that can be reasonably expected under the current scenario of two huge regional landfills operating independently but simultaneously.

Further, the Commission totally fails to take into consideration the significant future increase in exposure to contaminant concentrations above the acceptable "levels" to human or ecological receptors, if these landfills are expanded. Please note that this scenario of three landfills emissions plus an industrial waste unit of 21,000 barrels with solid waste buried on top of it is not replicated anywhere in the State of Texas and should not be allowed to continue to expand.

This Application Amendment for Expansion of the Sunset Farms Landfill must be denied because it is not protective of human health and the environment.

*Have formal oral comment*

13  
15

# TCEQ Public Meeting Form

*Spoke again*

Thursday, May 24, 2007

27

BFI Waste Systems of North America, Inc.

Proposed Permit MSW 1447A

*Written comments  
Hearing request  
filed*

PLEASE PRINT:

Name: B. TREK ENGLISH

Address: 3516 Quiete Drive

City/State: AUSTIN TX Zip: 78754

Phone: (512) 929-0970

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? North East Action Group

CHIEF CLERK'S OFFICE

MAY 25 AM 11:30

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*MW*

**TJFA, L.P.**

P.O. Box 17126  
Austin, TX 78760  
(512) 619-9103  
(512) 243-4123

*MSW*  
*51757*

H  
RFR  
OPA  
NOV 06 2007  
BY Ky

November 5, 2007

2007 NOV - 6 AM 10:37  
CHIEF CLERKS OFFICE  
TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**Via Facsimile: (512) 239-3311  
and Federal Express**  
LaDonna Castañuela  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

Re: Application of BFI Waste Systems of North America, Inc.;  
MSW Permit No. 1447A

Dear Ms. Castañuela:

This letter is being submitted on behalf of TJFA, L.P. ("TJFA") in response to the Executive Director's Response to Public Comment and the opportunity to request a contested case hearing dated October 5, 2007 from the Chief Clerk's Office on the above-referenced application. TJFA is opposed to this proposed permit amendment, and hereby requests the Executive Director reconsider his decision for the reasons explained herein, and again TJFA also requests a contested case hearing on this application. TJFA previously submitted comments and requested a contested case hearing on June 15, 2007.

TJFA is a real estate investment company which owns real property within one mile of the BFI Sunset Farms Landfill. TJFA is an affective person because it owns approximately 11 acres across the street from the landfill on the north side of Blue Goose Road in the Lucas Munos Survey Abstract No. 513. TJFA is concerned about the negative impact to the use and value of its property due to foul odors, dust, windblown debris, vectors, noise, traffic, methane gas migration, contaminated groundwater contamination migration, and other negative affects. Thus, TJFA has a justiciable interest related to the legal rights, duties, privileges, powers, or economic interests in this property that are adversely affected by this application in a way that is not common to the general public because of such close proximity. TJFA incorporates by reference and raises again the disputed issues of fact submitted in its June 15, 2007 public comments. TJFA further disputes the Executive Director's Responses to Comments in 1-44 and more particularly asserts:

*Mac*

LaDonna Castañuela

November 5, 2007

p. 2

#### Applicant Identification, Comment No. 5

In response to comments, the Executive Director has changed the Draft Permit to identify the applicant as BFI Waste Systems of North America, Inc. as the sole permittee, and to identify that BFI Waste Systems of North America, Inc. and Giles Holdings, L.P. are the property owners. This landfill, however, has a history of non-compliance with matters that directly impact TJFA's property. Therefore, TJFA must be sure there is a responsible entity for the operations at this landfill. The permittee must be responsible and responsive when these impacts occur, without shifting responsibility to some other entity.

#### Permit Term, Comment No. 6

TJFA supports the special provision that has been included in the permit that specifies that BFI shall receive no waste after November 1, 2015. It must be understood by all parties that no amendments are allowed and no transfer station will be allowed at this site.

#### Compatibility with Surrounding Community and Growth Trends, Comment 13.

The proposed permit amendment is not compatible with land use in the surrounding area. The adverse impact of this facility upon the community, property owners and individuals is unacceptable. Community growth patterns indicate that this is a rapidly growing residential area, incompatible with a nearly 200-foot tall landfill. Comments 13, 14 and 17.

The character of the surrounding land uses within one mile of the proposed facility is generally residential and the growth trends of the nearest community are also residential. This expansion is in the community's preferred growth corridor designated as the "desired development zone." Expansion of a landfill is not compatible with these trends and growth patterns. 30 TAC §330.53(b)(8). Comments 13, 24, 26, 27, and 28.

Roads within a mile of the facility have not been fully identified by the applicant. Accordingly a reviewer cannot determine the adequacy of the access roads, availability of roads or volume of traffic. 30 TAC § 330.53(b)(9). Comment 20.

The draft permit authorizes this landfill to be open 24 hours a day 7 days a week which is unacceptable based on its proximity to residential neighborhoods. The landfill should be completely closed on Sundays, and closed from 9:00 p.m. to 5:00 a.m. nightly for all activities including waste acceptance, landfill construction and maintenance, waste composting and processing and the use of any heavy construction equipment. Comment 25.

Because of the landfill's history of odor violations, the New 330 rules should be followed for odor control. 30 TAC § 330.149 requires that the site operating plan have an odor management plan that addresses the "sources of odors and includes general instructions to control odors or sources of odors. Plans for odor management must include the identification of wastes that require special attention such as septage, grease trap waste, dead animals and leachate." Comments 22 and 33.

It was evident from comments presented at the public meeting held on May 24, 2007, that this facility already has a problem with surface water drainage. Accordingly, the New 330 rules should be used for erosion and sediment control in order to protect the surrounding properties. 30 TAC §§ 330.301 through 330.305. Comment 33.

It does not appear that compliance with requirements for non-erodible velocities, minimizing soil losses, and stability of final cover has been demonstrated. 30 TAC § 330.55(b)(5)(E), § 330.56(f)(4)(A)(vi), § 330.56(f)(4)(A)(vii), § 330.133(b), and/or § 330.55(f). Comment 34.

There is significant contradiction between various parts of the Amendment Application regarding cover inspection and erosion repair. 30 TAC § 330.113(b)(B). § 330.133(g), § 330.55(b)(1). Comment 34.

It is stated that the inspections for erosion of final and intermediate cover will occur only Monday through Friday, yet, the landfill would be permitted to operate 24 hours per day, 7 days a week. 30 TAC §§ 330.133, 330.55(b)(1). This is another reason not to authorize this landfill being open 24 hours per day, 7 days a week. Comments 31 and 34.

It is unclear whether the use of alternate daily cover is authorized by the permit amendment. Standard Permit Condition VIII, I. TJFA regards alternate daily cover as unacceptable for this permit application and should be prohibited, primarily because of the severe violations of nuisance odor requirements. 30 TAC § 330.133 (a) and (c). Comment 31.

The onsite materials may be unsuitable for landfill construction purposes without specific information regarding the very high plasticity characteristics. It is also not clear from the application that the onsite soils can be successfully used for soil liner. 30 TAC § 330.56 (d) (5) (B). Comment 32.

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The storage, treatment and disposal of contaminated water must be detailed in the application. There does not appear to be a description that demonstrates that the facility meets the criteria to ensure that runoff from daily cover is not potentially contaminated. 30 TAC § 330.56 (o) (1). Comment 36.

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LaDonna Castañuela

November 5, 2007

p. 4

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The leachate collection system may not work adequately because of problems related to the sump. It appears that leachate levels will accumulate above one foot on the liner and flood the waste above the pump. 30 TAC § 330.5 (e) (6) (A) (ii). Comment 35.

This Applicant's compliance history, specifically with regard to odor conditions, gas emissions, contaminated storm water, and the leachate collection system is a material and relevant issue. Comment 10.

Finally, TJFA is still opposed to expansion of this landfill and dispute that the Application complies with applicable rules. Comment 1

Accordingly, TJFA re-urges its request for a contested case hearing.

Very truly yours,

A handwritten signature in black ink that reads "Dennis L. Hobbs". The signature is written in a cursive, somewhat stylized font.

Dennis L. Hobbs



**TJFA, L.P.**

P.O. Box 17126  
Austin, TX 78760  
(512) 619-9103  
(512) 243-4123

*MSW  
51757*

H OPA  
REF NOV 06 2007  
BY *[Signature]*

CHIEF CLERKS OFFICE

2007 NOV - 5 PM 3:50

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

November 5, 2007

**Via Facsimile: (512) 239-3311  
and Federal Express**  
LaDonna Castañuela  
Office of the Chief Clerk - MC 105  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

Re: Application of BFI Waste Systems of North America, Inc.;  
MSW Permit No. 1447A

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*MSW*

LaDonna Castañuela  
November 5, 2007  
p. 2

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LaDonna Castañuela  
November 5, 2007  
p. 3

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LaDonna Castañuela  
November 5, 2007  
p. 4

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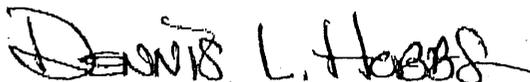
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Accordingly, TJFA re-urges its request for a contested case hearing.

Very truly yours,



Dennis L. Hobbs

TEXAS DISPOSAL SYSTEMS, INC.  
TEXAS DISPOSAL SYSTEMS LANDFILL, INC.



P.O. Box 17126  
Austin, Tx 78760-7126  
(512) 421-1300 Office  
(512) 243-4123 Fax  
www.texasdisposal.com

FACSIMILE  
TRANSMISSION MEMORANDUM

DATE: November 5, 2007

NUMBER OF PAGES TRANSMITTED: 5 (including cover)

MESSAGE IS FOR: LaDonna Castañuela, Office of the Chief  
Clerk, Texas Commission on Environmental Quality

MESSAGE IS FROM: Dennis L. Hobbs

FAX NO. CALLED: 239-3311

REGARDING: Please see attached letter re: Application of  
BFI Waste Systems of North America, Inc.; MSW Permit No. 1447A

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (collect) and return the original message to us at the above address via the U.S. Postal Service. Thank you.

CHIEF CLERKS OFFICE

2007 NOV - 5 PM 3: 51

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

MSW  
51757

**TJFA, L.P.**

P.O. Box 17126  
Austin, TX 78760  
(512) 619-9103

June 29, 2007

Hand Delivery

LaDonna Castañuela  
Office of the Chief Clerk, MC 105  
Texas Commission for Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

OPA  
H JUN 29 2007  
BY DL

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
JUN 29 PM 1:16  
CHIEF CLERK'S OFFICE

Re: Proposed MSW Permit No. 1447-A

Dear Ms. Castañuela:

Attached are comments submitted on behalf of TJFA, L.P. TJFA owns real property within 1 mile from the BFI Sunset Farms Landfill operated under current TCEQ MSW Permit No. 1447. It is our opinion that the current operation of this facility and the proposed facility permit amendment referenced above have an adverse impact on the use and value of TJFA and its property in a way that is not common to the general public because of such proximity.

A public notice (Attachment 1) of an Application and Preliminary Decision and Notice of Public Meeting for Proposed MSW Permit No. 1447-A was published in the Austin American-Statesman on May 17, 2007. Public comments were originally due June 18, 2007 and then extended to June 29, 2007 (Attachment 2). We are submitting the attached public comments (Attachment 3) in response to this public notice. It is our understanding the permit amendment application was processed under the MSW regulations in effect prior to March 29, 2006. In our opinion, under those regulations, the proposed permit amendment does not adequately address the attached list of relevant and material issues. TJFA requests the Executive Director return the proposed permit amendment to the applicant for further changes consistent with the attached comments and resubmit when corrected. Furthermore, as a "person" affected by the current and proposed facility, TJFA respectfully requests that a contested case hearing be held on the disputed relevant and material issues contained in the attached comments.

Very truly yours,

DL HOBBS

Dennis L. Hobbs

Attachments 1, 2, and 3

DL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 AMENDED  
 NOTICE OF APPLICATION AND PRELIMINARY DECISION  
 AND  
 NOTICE OF PUBLIC MEETING  
 FOR  
 MUNICIPAL SOLID WASTE PERMIT  
 PROPOSED PERMIT NO. 1447A

**APPLICATION AND PRELIMINARY DECISION.** BFI Waste Systems of North America, Inc., 45425E Loop 410, San Antonio, Texas 78222-3925, and Giles Holdings, L.P., 1223 Judson Road, Longview, Texas 75601-3922, have applied to the Texas Commission on Environmental Quality (TCEQ) for a permit amendment to authorize a vertical expansion of the existing Type I municipal solid waste landfill facility. The facility would be authorized to accept municipal solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including household garbage, putrescible wastes, rubbish, 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. The proposed site is a 349.4 acre facility, located approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290, in Travis County, Texas at 9912 Giles Road, Austin, Texas 78714. This application was submitted to the TCEQ on January 26, 2006.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the University Hills Branch of the Austin Public Library, 4721 Loyola Lane, Austin, Texas 78723-5939.

**PUBLIC COMMENT / PUBLIC MEETING.** The TCEQ will hold a public meeting for this application. You may submit public comments or request an additional public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. During the Informal Discussion Period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the Informal period will not be considered by the Commissioners before reaching a decision on the permit, and no formal response will be made to the Informal comments. During the Formal Comment Period, members of the public may state their comments into the official record. A written response to all formal comments will be prepared by the Executive Director after the comment period closes and considered by the Commissioners before they reach a decision on the permit. A copy of the response will be sent to each person who submits a formal comment or who requests to be on the mailing list for this application and provides an address. However, if Applicant or the Executive Director request a direct referral for a contested case hearing before the written response to comments is prepared, then a copy of the response will be sent only to the parties participating in the hearing. Only relevant and material issues raised during the formal comment period can be considered if a contested case hearing is granted.

The Public Meeting is to be held:  
 Thursday, May 24, 2007 at 7:00 p.m.  
 Old Manor Middle School.....  
 Cafeteria  
 10323 U.S. Hwy 290 E.  
 Manor, Texas 78653

**OPPORTUNITY FOR A CONTESTED CASE HEARING.** After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

**TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST:** your name; address; phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and the statement "(I/we) request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are germane to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

**EXECUTIVE DIRECTOR ACTION.** The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**MAILING LIST.** If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 within 30 days from the date of newspaper publication of this notice.

**INFORMATION.** Citizens are encouraged to submit written comments anytime during the meeting or by mail before the meeting to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, TX 78711-3087. If you need more information about this permit application or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information about the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

Further information may also be obtained from BFI Waste Systems of North America, Inc., 4542 SE Loop 410, San Antonio, Texas 78222-3925, and Giles Holdings, L.P., 1223 Judson Road, Longview, Texas 75601-3922 or by calling Mr. Brad Dugas, at (512) 392-9101.

Issued: April 24, 2007



Public Comments by TJFA, L.P. on Proposed MSW Permit No. 1447-A  
In Travis County by BFI Waste Systems of North American, Inc.  
and Giles Holdings, L.P.

Public Comments on Relevant and Material Issues:

- **§360.1.** The applicant's compliance history is insufficient given the history of problems related to odor, stormwater runoff, gas emissions, etc.
- **§330.5(b).** The regulatory variances noted in these comments would lead to the facility being considered a prohibited "open dump."
- **§330.5(e)(6)(A)(ii).** The SOP contains no provisions for leachate management, as is required by the regulations. There also appears to be no provisions prohibiting leachate recirculation.
- **§330.51(d).** It does not appear that the application, as submitted complies with the referenced regulation, which is the sealing requirement of the Texas Engineering Practice Act because two engineers signed the cover sheet without indicating who did what and an engineer signed only the cover sheet without accepting responsibility for the document.
- **§330.51(e)(3).** The permit amendment application for the figures accompanying Attachment 4 do not have page numbers.
- **§330.53(a)(1).** The permit amendment application has not provided the information necessary to show the proposed facility is compatible with today's existing land use in the area.
- **§330.53(b)(9).** Insufficient information on the roads and the volume of traffic has been provided to evaluate the impact on transportation.
- **330.55(a)(2), 330.121(b), and 330.56(a)(1).** Attachment 1 – Site Layout Plan doesn't identify a "buffer zone" or show a perimeter access road. There is no discussion in Part III for easements.
- **§330.56(d).** The regulation requires that the Geology Report be prepared and signed by a qualified groundwater scientist. Both a PE and a PG signed and sealed the cover page of the report, and most of the table of contents, without indicating who did what.
- **§330.56(d)(5)(A).** The subsurface investigation is not performed up to the standard of care, nor seemingly regulatory requirements.

- **§330.56(d)(5)(A)(viii).** The cross sections provided with this attachment do not depict the general strata at the facility.
- **§330.56(d)(5)(B).** The Geotechnical Report asserts that the on-site materials are suitable for landfill construction purposes without any caveats for the high to very-high plasticity characteristics.
- **§330.56(d)(5)(B).** “Demonstration” that recompacted soils could meet soil liner permeability criteria of  $1 \times 10^{-7}$  cm/sec is not adequately documented in Appendix 4E.
- **§330.56(d)(5)(C)(iv).** Despite having knowledge of the potential for contaminant migration from the adjacent WMI site, no discussion of this potential is provided in the Groundwater Investigation Report.
- **§330.56(h).** Part III Appendix III-D Soil Balance Calculations indicate a soil deficit of 2.74 million cubic yards (“Mcy”) with 1.31 Mcy of that being 3 feet of final cover.
- **§330.56(i).** Based on the most recent public notice, May 17, 2007, there are two applicants contrary to the regulations; BFI Waste Systems of North America, Inc. and Giles Holdings, LP. Attachment 9, the Applicant’s Statement, is for BFI only, though; there is not applicant’s statement from Giles Holdings, LP, nor anything in the application that indicates that BFI is authorized to act on behalf of Giles Holdings, L.P.
- **§330.56(j) and §330.205.** The SLQCP appears to be generic and was not specifically written to address conditions at this site – particularly the abundance of CH clay materials resulting from proposed excavation.
- **§330.56(n)(1)(B).** The permit amendment application indicates that in 1998, TNRCC approved removal of gas monitoring probes along the common ACL/BFI boundary, reasoning that any landfill gas migrating between the two landfills would be collected by the landfill gas collection systems or would be detected by other perimeter gas monitoring probes. Thus, the probes were not necessary to protect public health. This, of course defies logic.
- **§330.56(o)(1).** The requirement that the storage, treatment, and disposal of contaminated water be detailed was not satisfied.
- **§330.63(b).** The permit waste receipt authorization should have a specified expiration date of November 1, 2015 and the owners of the land comprising the landfill should be required to deed record this closing date in a fashion that allows the provision to be enforceable.
- **§330.114 (2).** The equipment list does not match the waste acceptance rate.
- **§330.115.** The Fire Protection Plan (subsection 5.5.2) 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.

- **§330.121(a).** Although easements and buffer zones are discussed in the SOP, they are not specifically described nor referenced to any drawing, e.g., Attachment 1 – Site Layout Plan.
- **§330.121(b).** The description of buffer zones does not discuss or describe how safe passage for fire-fighting and other emergency equipment will be provided nor is there any reference to perimeter access.
- **§330.125(b).** The proposed odor management plan is insufficient to control odors given the history of odor problems related to this facility and the lack of clay soils for daily cover.
- **§330.133(a), §330.55(b)(1).** Inspections for erosion of final and intermediate cover will occur only Monday through Friday. This is not sufficient because the landfill is proposed to operate 24 hours per day, 7 days a week.
- **§330.133(a) and (c).** Section 15.0 of the narrative to Part III of the permit amendment application discusses the use of alternate daily cover (ADC), tarps, shredded wood chips, or tire chips. However, Part IV – SOP gives no indication that ADC will be used, does not provide any description of the ADC and how it will be used, and does not contain any correspondence related to the use of ADC.
- **§330.133(g), §330.55(b)(1).** The permit amendment application contains several different statements regarding cover inspection and erosion repair (note that §330.133(f) requires that erosion of final cover “*must be repaired within five days of detection*”).
- **§330.201(2) and (3).** Unless the original piping for the leachate collection system had a design safety factor in excess of 3, the load doubling brought about by the height increase over the newer portions of the existing landfill cells would result in an unacceptable safety factor.
- **§330.203(b).** Stability analyses (Attachment 4, Appendix 4G) for the liner during the filling and operation of the landfill are not done to the industry standard of practice and are therefore flawed.
- **§330.253.** The six to eighteen-inch root depth of the final cover plan options will not allow for permanent vegetation of the cover. The summers in Austin are too hot and dry and there is insufficient soil moisture storage in a thin soil layer to sustain permanent vegetation.
- **§330.253(b)(1).** Figures 6-16 and 6-17 did not show or otherwise indicate that the final cover system geomembrane extends beneath the downchutes. Also, the geomembrane to be installed in the final cover system is variously said to be 20 mil, 40, mil, or 60 mil HDPE.



Page 2

The environment is not currently being protected from landfill gases, dust, and debris. A branch of Walnut Creek is behind my home. I have sighted Mexican Spotted Owls (an endangered species), Great Horned Owls, a Bald Eagle, as well as a myriad of other smaller species of birds that are affected by the diminished air quality due to BFI's landfill gases.

The proposed height of the expansion will bring more dust and wind blown debris to Walnut Creek. I have seen wind blowing on multiple occasions that was thick enough to look like smoke. On windy days, it can be especially bothersome and unhealthy.

My health and well being is also not protected from large numbers of vultures that fly low over my house and surrounding homes in the early morning and evening. I have seen them fly around the landfill and feed on landfill trash. They often roost behind my house in trees by Walnut Creek. This has only been a problem in the 4 years, only after the BFI landfill grew in size. Again, this was not a problem the first 7 years I lived in my home. BFI landfill was not that big in size at when I first moved here.

I request a contested case hearing.

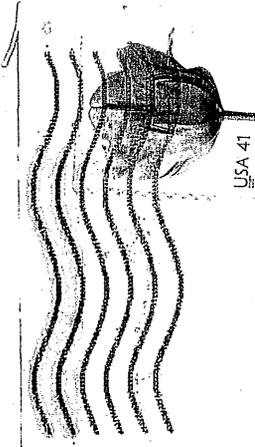
Sincerely,



Amy Kersten  
9038 Wellesley Drive  
Austin, TX 78754  
(512) 927-9600

AUSTIN TX 787

02 NOV 2007 PM 5 T



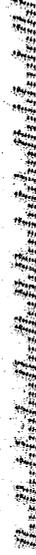
*Mrs. La Donna Castanuela  
TC5Q, MC-105  
P.O. Box 13087  
Austin, TX 78711-3087*

RECEIVED

NOV 05 2007

TC5Q MAIL CENTER

787113087





Amy Kersten  
Page 2

5. Why would TCEQ considering granting BFI a landfill expansion permit when it has an almost non-existent buffer zone between its landfilling operations? And is nearby
  - a. Neighborhoods
  - b. Schools
  - c. A nursing home
  - d. Businesses
  - e. Major U.S. Hwy (290 East)
6. What are the effects of Methane gas from aged landfills in growing urban areas?
7. Isn't it against TCEQ regulations for landfill gases to leave the permitted boundary of a landfill?
8. Is it against TCEQ regulations and/or state law that landfill gases leaving a permitted boundary be allowed to continue after repeated reports are sent from residents to the TCEQ?
9. Why is the TCEQ allowing BFI's landfill gases and subsequent odors to leave BFI's permitted boundaries?
10. Why is BFI allowing landfill gases and subsequent odors to leave their permitted boundaries?
11. What are the known, scientific effects of landfill gases and subsequent odors on adults and children that live, work, and/or attend school close to a landfill in an urban area?
  - a. What are the known, scientific effects of landfill gases and subsequent odors on adults and children that live, work, and/or attend school near a landfill in an urban area when exposed to landfill gases repeatedly for a time period of 5 or more years?

Thank you for your time and effort to reply to my questions in writing; I am looking forward to your reply.

Sincerely,



*MSW  
5/23/07*

Amy Kersten  
9038 Wellesley Drive  
Austin, TX 78754  
(512) 927-9600

June 26, 2007

OPA  
JUN 28 2007  
BY g

CHIEF CLERKS OFFICE

JUN 27 AM 9:00

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

La Donna Castañuela, Office of the Chief Clerk  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Building F  
P. O. Box 13087  
Austin, TX 78711  
Fax number: (512) 239-3311

RE: BFI/Giles Holdings Sunset Farms Landfill - Permit #1447 -  
Proposed Landfill Expansion - Permit 1447-A

Dear Ms Castañuela:

I am submitting additional questions and comments concerning the proposed landfill expansion for BFI/Giles Holdings Sunset Farms Landfill. Please answer my questions in writing and mail to me at the address above.

1. Given the fact that the BFI landfill at Hwy 290 East and Giles Road is over 20 years old, why would TCEQ consider granting it another expansion?
2. The weight of a landfill pressing in on itself helps to create Methane gas. Given this, what scientific information has TCEQ studied prior to the BFI public hearing on May 24, 2007 regarding Methane gas accumulation in older landfills?
3. What comprehensive studies have been performed on landfills at or over 20 years old in the state of Texas that are still receiving wastes such as the wastes that BFI receives?
  - a. Effects on the environment due to older, outdated liner systems in aged landfills?
  - b. Effects on adults and children living near aged landfills?
4. What comprehensive studies have been performed on landfills at or over 20 years old with less than a half mile buffer zone as to the effects on surrounding neighborhoods and businesses?

*MSW*

Amy Kersten  
Page 2

5. Why would TCEQ considering granting BFI a landfill expansion permit when it has an almost non-existent buffer zone between its landfilling operations? And is nearby
  - a. Neighborhoods
  - b. Schools
  - c. A nursing home
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Thank you for your time and effort to reply to my questions in writing; I am looking forward to your reply.

Sincerely,

*Amy Kersten*

JUN. 27. 2007 6:54AM

Received:

Jun 27 2007

53am

NO. 911

P. 1

Amy Kersten  
9038 Wellesley Drive  
Austin, TX 78754  
(512) 927-9600

### Fax Cover Sheet

To: La Donna Castañuela, Office of the Chief Clerk  
TCEQ  
Fax # 512-239-3311

RE: BFI/Giles Holdings Sunset Farms Landfill - Permit #1447 -  
Proposed Landfill Expansion - Permit 1447-A

Dear Ms Castañuela:

I am submitting additional questions and comments concerning the proposed landfill expansion for BFI/Giles Holdings Sunset Farms Landfill.

Thank you,

*Amy Kersten*

CHIEF CLERKS OFFICE

2007 JUN 27 AM 8:00

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY



3. BFI was not in compliance with federal Sub Title D regulations when it requested in 1993 that CAPCOG (formerly known as CAPCO) allow it to become a regional landfill.
  - a. How many other landfills in Texas did not complete their Sub Title D ground water monitoring system until 1999?
  - b. Why is it that BFI did not have to install a comprehensive perimeter ground water monitoring system in 1993?
  - c. Why was BFI allowed to ignore federal regulations in 1993?
  - d. How many other times and specific dates has BFI not been in compliance with
    - i. Federal regulations?
    - ii. State regulations?
  - e. Was BFI testing any ground water monitoring wells prior to 1999?
    - i. If so, what ground monitoring wells were being tested and where are these wells located?
  - f. Prior to 2001, what ground water monitoring wells were being tested at BFI?
  - g. In the past 20 years were any constituents found in any of the ground water monitoring wells
    - i. From 1981 to 1999?
    - ii. From 2000 to 2007?
  - h. A portion of the northeast part of the Waste Management landfill, which conducts landfill operations directly next to BFI, drains into the BFI landfill.
    - i. What precautions are being taken by BFI to stop any potential migration of pollutants from entering their landfill?
    - ii. Did TCEQ take the above drainage situation into consideration when determining that BFI's request for a landfill expansion was acceptable?
    - iii. Is there any record or any comprehensive study of any other active landfill site draining into another existing, active landfill site in the state of Texas?
    - iv. If there is no other record of the above to determine the impact of such a situation, what scientific information did TCEQ take into consideration when determining the BFI landfill site was suitable for a landfill expansion?
    - v. Given that a portion of the Waste Management landfill drains into the BFI landfill, why is TCEQ even considering a landfill expansion request at this site?
    - vi. Since BFI did not comply with the federally mandated Sub Title D requirements to install a comprehensive perimeter ground water monitoring system in 1993, why is the TCEQ even considering BFI's request for a landfill expansion?
4. There is existing documentation of gas emissions from the BFI landfill. This has been an on going problem since at least 2001. This is still an ongoing problem as the TCEQ heard at the public hearing on May 24, 2007.

- a. Gas emissions beyond the perimeter of the BFI landfill is a violation of the federal Clean Air Act, given this, why is the TCEQ considering an expansion permit for BFI?
  - b. Three children testified at the TCEQ public hearing held on May 24, 2007 that odors are continually entering their public elementary school's playground from the BFI site and are causing them to experience of myriad of health issues. Other residents also testified that they and their children are experiencing health issues.
  - c. What does TCEQ have to say about the children being subject to BFI's potentially harmful gas emissions?
  - d. How can TCEQ grant a permit expansion when current landfilling activities at BFI are breaking federal law?
5. Residents regularly receive literature from the Texas Department of Transportation (TX Dot) addressing the upcoming construction that will effect people living near and people driving on Hwy 290 East of which BFI is in close in proximity.
- a. Will TCEQ require BFI to perform a new, comprehensive traffic impact study which will take into consideration all of the projects by TX DOT that will be starting in the very near future?
  - b. If no, why not given the amount of information TX DOT sends to neighbors living in this area?
  - c. BFI is currently using alternate roads besides Hwy 290 East and if there will be increased trash disposal to this landfill, how can BFI guaranty it will not use alternate roads?
  - d. How can BFI guaranty they will not use alternate roads once major construction on Hwy 290 East begins?
  - e. I am requesting that TCEQ ask BFI for a specific plan as to how they will not continue to use alternative roads.

Thank you for your time and effort to reply to my questions in writing; I am looking forward to your reply.

Sincerely,



*MSW*  
*51757*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Amy Kersten  
9038 Wellesley Drive  
Austin, TX 78754  
(512) 927-9600

2007 JUN 11 AM 8:03

CHIEF CLERKS OFFICE

June 9, 2007

OPA

JUN 11 2007

BY *KY*

La Donna Castañuela, Office of the Chief Clerk  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Building F  
P. O. Box 13087  
Austin, TX 78711  
Fax number: (512) 239-3311

RE: BFI/Giles Holdings Sunset Farms Landfill - Permit #1447 -  
Proposed Landfill Expansion - Permit 1447-A

Dear Ms Castañuela:

I am submitting additional questions and comments concerning the proposed landfill expansion for BFI/Giles Holdings Sunset Farms Landfill. Please answer my questions in writing and mail to me at the address above.

1. At the TCEQ public meeting on May 24, 2007, BFI stated multiple times that they will leave this site by November 1, 2015 - the same site for which they are requesting a landfill expansion. However their expansion clear states that the capacity they are requesting will allow them to be at this site until 2018.
  - a. If BFI is leaving in 2015, will TCEQ deny this permit?
  - b. Why would TCEQ grant a permit beyond the time that BFI publicly stated they would leave?
  
2. There are no other privately owned landfills that are operating side-by-side in the state of Texas.
  - a. Is there a comprehensive study regarding the cumulative affects from dual landfill activities?
  - b. Is there a comprehensive study of the cumulative affects of aged landfills permitted prior to Sub Title D and continuing to operate in a sprawling urban area?
  - c. If the above answers to a) and/or b) are no, why would the TCEQ grant an expansion permit to BFI?
  - d. Why has the TCEQ continued the practice of permitting landfill expansions at this location?

*MSW*

## Page 2 – Questions and comments from Amy Kersten, Item 2 continued

3. BFI was not in compliance with federal Sub Title D regulations when it requested in 1993 that CAPCOG (formerly known as CAPCO) allow it to become a regional landfill.
  - a. How many other landfills in Texas did not complete their Sub Title D ground water monitoring system until 1999?
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  - c. Why was BFI allowed to ignore federal regulations in 1993?
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    - ii. State regulations?
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    - i. If so, what ground monitoring wells were being tested and where are these wells located?
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  - g. In the past 20 years were any constituents found in any of the ground water monitoring wells
    - i. From 1981 to 1999?
    - ii. From 2000 to 2007?
  - h. A portion of the northeast part of the Waste Management landfill, which conducts landfill operations directly next to BFI, drains into the BFI landfill.
    - i. What precautions are being taken by BFI to stop any potential migration of pollutants from entering their landfill?
    - ii. Did TCEQ take the above drainage situation into consideration when determining that BFI's request for a landfill expansion was acceptable?
    - iii. Is there any record or any comprehensive study of any other active landfill site draining into another existing, active landfill site in the state of Texas?
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    - v. Given that a portion of the Waste Management landfill drains into the BFI landfill, why is TCEQ even considering a landfill expansion request at this site?
    - vi. Since BFI did not comply with the federally mandated Sub Title D requirements to install a comprehensive perimeter ground water monitoring system in 1993, why is the TCEQ even considering BFI's request for a landfill expansion?
4. There is existing documentation of gas emissions from the BFI landfill. This has been an on going problem since at least 2001. This is still an ongoing problem as the TCEQ heard at the public hearing on May 24, 2007.

## Page 2 – Questions and comments from Amy Kersten, Item 4 continued

- a. Gas emissions beyond the perimeter of the BFI landfill is a violation of the federal Clean Air Act, given this, why is the TCEQ considering an expansion permit for BFI?
  - b. Three children testified at the TCEQ public hearing held on May 24, 2007 that odors are continually entering their public elementary school's playground from the BFI site and are causing them to experience of myriad of health issues. Other residents also testified that they and their children are experiencing health issues.
  - c. What does TCEQ have to say about the children being subject to BFI's potentially harmful gas emissions?
  - d. How can TCEQ grant a permit expansion when current landfilling activities at BFI are breaking federal law?
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- a. Will TCEQ require BFI to perform a new, comprehensive traffic impact study which will take into consideration all of the projects by TX DOT that will be starting in the very near future?
  - b. If no, why not given the amount of information TX DOT sends to neighbors living in this area?
  - c. BFI is currently using alternate roads besides Hwy 290 East and if there will be increased trash disposal to this landfill, how can BFI guaranty it will not use alternate roads?
  - d. How can BFI guaranty they will not use alternate roads once major construction on Hwy 290 East begins?
  - e. I am requesting that TCEQ ask BFI for a specific plan as to how they will not continue to use alternative roads.

Thank you for your time and effort to reply to my questions in writing; I am looking forward to your reply.

Sincerely,

*Amy Kersten*

**FACSIMILE COVER PAGE**

To : La Donna Castañuela

From : Amy

Sent : 6/9/2007 at 10:14:04 PM

Pages : 4 (including Cover)

Subject : BFI/Giles Holdings Sunset Farms Landfill - Proposed Expansion Permit 1447-A

Ms. Castañuela,

Please review and respond to my additional questions concerning the BFI/Giles Holdings Sunset Farms Landfill Proposed Expansion Permit 1447-A.

I will also mail my questions to you.

Thank you,  
Amy Kersten

CHIEF CLERKS OFFICE

2007 JUN 11 AM 8:02

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*Done formal oral comment*

(12)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

BFI Waste Systems of North America, Inc.

Proposed Permit MSW 1447A

CHIEF CLERKS OFFICE

MAY 25 AM 11:34

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: Amy Kersten

Address: 9038 Wellesley Dr.

City/State: Austin

Zip: 78754

Phone: (512) 927-9600

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*mc*

Amy Kersten  
9038 Wellesley Drive  
Chimney Hills North  
Austin, TX 78754  
(512) 927-9600

OPA RECEIVED  
MAY 24 2007  
AT PUBLIC MEETING

As a citizen that lives within 1 mile of the BFI landfill in Northeast Travis County, I am concerned with many issues – contaminated ground water, leachate, landfill gases, landfill odors, wind blown trash on our highways and streets, excessive trash truck traffic, poor corporate landfill planning, endangered species, and logistics. However, the following questions that I will ask you to specifically address today are the issues that concerned me the most.

1) Ground Water Monitoring

When BFI applied to CAPCO to become a regional landfill in 1993, they told CAPCO that they had the necessary funds to be a regional landfill and that they were compliant with all the required Sub Title D regulations. Given this, CAPCO granted their request. However, BFI was not compliant with the Sub Title D's ground water monitoring requirement in 1993. It would be an impossible stretch of the imagination to suggest that BFI was not aware in 1993 that they had not fulfilled the Sub Title D ground water monitoring system requirements. This demonstrates BFI's willful intention to ignore environmental regulations, to use false information for dishonest gain, and to manipulate a governmental body into thinking that they were a compliant landfill operator.

- a. Why did BFI wait until 1999 just as the City of Austin began the Carter & Burgess Investigation of the northeast landfills before installing the required Sub Title D ground water monitoring system?
- b. TCEQ, why did you not check up on BFI to ensure they were compliant with Sub Title D regulations?
- c. What percentage of the BFI landfill is now fully compliant to Sub Title D ground water monitoring?
- d. Please indicate all the ground monitoring wells which have detected pollutants whether above or below acceptable levels?

2) Leachate leaking from cells that were not EPA approved

- a. Why did BFI choose not use the double composite liners as similar to liners approved by the EPA?
- b. Specifically which cells in the BFI landfill contain the double composite liner system?
- c. What percentage of the BFI landfill does not have double composite liners?

3) Air Quality

- a. Exactly how many times in the last 10 years has BFI had levels of methane gas at or above acceptable levels?

On July 1, 2006 I was coming back from the store early in the morning and saw what looked like smoke coming from the northeast landfills. I called my neighbor and we both believed it to be dust

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
MAY 25 2007  
CHIEF CLERK'S OFFICE

MW

Amy Kersten

Page 2

coming from the landfill. There was so much dust that it literally looked like grey smoke. I sent an email to Mr. Kalda on December 12<sup>th</sup> concerning blowing dust that invaded my car as I was driving on Hwy 290 East 3 miles from BFI. I believe this was a result of the numerous dirt mesas or dirt mounds that BFI has allowed to sit on their landfill for over year, another demonstration of their choice to not operate and maintain their landfill to the fullest extent. The dirt mesas are not only unsightly but are contributing to poor air quality in Northeast Travis County.

- a. Why has BFI allowed these dirt mesas or mounds to continue to sit for over a year?
- b. When will BFI remove the dirt mesas?

4) Poor Corporate Landfill Planning

BFI knew at some point in the future, even back in 1993, that they would run out of space at their Giles Road location in the foreseeable future and would have to find another location.

- a. Exactly why did BFI choose not to locate and permit another landfill site starting in 1993 knowing that it takes at least ten years to permit a landfill?

5) Endangered Species

BFI is adjacent to Walnut Creek and Gilleland Creek. I have seen Great Horned Owls and Mexican Spotted Owls on Walnut Creek. The Mexican Spotted Owls are federally protected as they are an endangered species of North America. BFI's 20 plus year old landfill, in close proximity to two creeks, with only a fraction of their trash cell liners to be acceptable by today's standards means that the probability of leachate leaking into the nearby creeks and harming endangered species is very real.

6) Logistics

- a. There are no other privately owned side-by-side landfills in the State of Texas. There are maybe only two or three privately owned side-by-side landfills in the entire nation.
- b. After 30 plus years, the logistics do not add up to allow another BFI expansion in an area of urban sprawl. Not only that but a vertical expansion will cause the weight of the landfill to press into itself to a greater degree, which in turn produces more leachate, more methane gas, and when not properly maintained, more landfill gases and odors.

Please incorporate my statement and questions into the meeting record.

I am also hereby requesting written answers to my questions which can be mailed to the address on Page 1.

Thank you,

*Amy Kersten*

NL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

October 31, 2007

LaDonna Castañuela, Chief Clerk  
TCEQ, MC-105  
P. O. Box 13087  
Austin, Texas 78711-3087

MSW  
51757

OPA H

2007 NOV -1 PM 1:57

NOV 01 2007

CHIEF CLERKS OFFICE

RE: BFI Waste Systems of North America, Inc.  
Permit No. 1447A

BY           09          

Dear Ms. Castañuela:

My name is Nora E. Longoria. I live at 7005 Dagon Drive, Austin, TX 78754-5762 ,512.272.8968. My home is about 1 mile from the above-referenced BFI landfill.

I am a party who is adversely affected by the BFI landfill as it exists now, and will certainly be more severely and adversely affected by any expansion of that landfill. As I have explained on many occasions, I had never been diagnosed with asthma until the odor problems started with the landfills. Now, my asthma gets worse every year. I now have to use a nebulizer to get any relief. The continuing odor problems have also adversely affected my stomach and I vomit quite often when the smells are persistent. My esophagus is eroding. One of your investigators was witness to the "specimen" I collected for him when I reported one of the odor problems. **Perhaps Glenn Shankle would like for me to provide him with a personal specimen the next time this happens?**

I dispute the finding of the Executive Director as indicated in **Comment 22** (see page 18 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A). I take issue with the Executive Director's finding as follows: "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.**" **AND HOW DOES MR. SHANKLE EXPECT THAT???** There is **no evidence of that happening and much evidence to the contrary!!!**

In addition to the health issues already stated, let me mention a few more problems I have personally experienced:

- Bird poop on food we try to eat outside. Having a backyard party is now out of the question;
- Constant flat tires from the nails left by construction companies traveling Hwy 290 to the landfill (I have given up trying to safely navigate Giles Road OR Blue Goose);
- Trash all over Hwy 290 from the BFI vehicles traveling to and from the landfill;
- Mud all over 290 from the BFI vehicles. The muddy conditions of Giles Road are vastly more unsafe;
- My car being bombarded with items flying out of the back of the BFI trucks traveling 290;
- BFI vehicles cutting me off on the highway;
- Friends complaining they do not want to visit me because of the horrific odor along 290 (and TCEQ **REFUSING** to acknowledge the effect those odors have on passers-by);

One more thing I would like to add is that TCEQ has insulted the entire Austin community by allowing a landfill to operate within the city limits. What kind of example are you setting for other states? Can you honestly be proud of what you have done to Texas? You sure don't follow the "Don't mess with Texas" motto, do you? Maybe you should ask the legislators to rewrite it to read, **"Don't mess with Texas unless you are a landfill."**

**We property owners are NOT in this for the money; we are in it for the quality of our environment. What are you in it for?**

For these and MANY other reasons, I request a contested case hearing.

Yours in Protest,



Nora E. Longoria  
Taxpayer  
7005 Dagon Drive  
Austin, TX 78754-5762

MW

512/327-0854  
fax 327-6339

TEXAS  
**ANNE & BILL MCAFEE**  
ON ENVIRONMENTAL  
4831 Timberline Drive  
Austin, Texas 78746-5630

AMcAfee@austin.rr.com  
BMcAfee@austin.rr.com

2007 JUN 18 PM 4:45

HR OPA  
JUN 20 2007  
BY DM

June 18, 2007

Attn: LaDonna Castanuela  
Office of the Chief Clerk  
MC 105, TCEQ, PO Box 13087  
Austin, Texas 78711-3087  
To:  
Kathleen Hartnett White, chair.  
Larry Soward, commissioner  
H.S. Buddy Garcia, commissioner

CHIEF CLERKS OFFICE

**Re: BFI's request for a permit to  
expand another 75-ft in height  
Permit Number 1447A**

MSW  
51757

I realize that it's not possible for you to attend all of the hearings that are held around the state. However, I wish you had been able to attend the TCEQ hearing held recently at the Manor Middle School auditorium a few miles east of Austin. I had expected a low turnout because of the time & location.

The auditorium is huge and it was packed. Most of the people were there from several northeast Austin neighborhoods, which was to be expected. But I was surprised that there were people there from as far away as Travis Heights and Circle C. The terrible reputations of BFI & Waste Management go way beyond the northeast neighborhood--- even bringing people to the hearing from far South Austin.

Many people lined up to speak. **Not a single person spoke in favor of BFI.** One mother spoke about her fear for her asthmatic daughter--- how she kept the doors open at all times during the night for fear she wouldn't hear her daughter if she stopped breathing.

**But the ones who impressed me the most were the parents and kids from nearby Bluebonnet School. The kids don't want to go outdoors to play during recess. Scavenger birds fly over the dump-site and then swarm across the school campus "dropping bird feces everywhere."**

Many people told about complaining to BFI about the terrible smells and about how their complaints were ignored repeatedly. Bottom line: BFI & Waste Management are not good citizens.

**The overwhelming consensus of the crowd was that people don't trust BFI. Trust. That word came up again and again.**

The problem with a signed contract with BFI— in which they agree to move after they reach the additional 75-ft height— people are convinced that BFI will break the contract. Worst of all, the cost of suing BFI— to force them to live up to their agreement— would be so enormous that citizens would not be able to afford the cost of such a lawsuit.

**As a proud Texan who loves our State Capitol, I think it is a shame to have a smelly trash dump located just 8 miles from the capitol.**

**I therefore request a contested case hearing in this matter.**

Sincerely,

Anne C. McAfee

MSW



Increased truck traffic making it impossible to conduct wedding ceremonies, film and record movies, commercials or documentaries will harm my business.

Inadequate measures to prohibit migration of noxious odors from the facility will make it impossible to conduct an events facility at Barr Mansion.

Operating 24 hours-a-day is incompatible with the surrounding neighborhoods and harms my business.

Unwillingness of the operator to pick up litter and illegally dumped waste within 2 miles of the entrance of the facility – this has long been a serious hurdle because BFI has never picked up beyond my business which is less than one mile from the facility.

Inability or unwillingness to control disease vectors will harm my business – In addition to the health concerns of disease vectors and a food business, roosting vultures will harm my business aesthetically, as well.

Inadequate drainage & erosion controls to handle a 24 hour 25 year storm or to prevent flow into the active portion of the landfill during the peak discharge from a 25-year storm

Inadequate liner system to prohibit migration of contaminated water and leachate into the groundwater

Inadequate system to prevent offsite migration of contaminated water

Inadequate groundwater monitoring

Inadequate systems to prohibit the migration of hazardous chemicals will prohibit the use of my property

Thank you for your consideration,

  
Mark McAfee



Comment 15 Buffer Zone and Easements

The Buffer includes part of a country road and should not.

Comment 17 Size of Facility and Visual Impact

We own a historical property within the one mile radius that is a special events facility. We began business before BFI received their original permit. We will be put out of business if the permit is granted because our business depends on weddings in our gardens. We will have a visible view of the landfill due to the extreme high elevations of the landfills.

Comment 18 Health Effects from Waste Buried at Site

We have reason to believe that the waste is commingled with the waste at the WMI landfill and that there is risk of contamination.

Comment 20 Traffic and Routes to Sites

Our business will also be put out of business due to the increase truck traffic that the landfill expansion will bring. The noise from the trucks will make outdoor weddings inappropriate.

Comment 22 Odor and Air Quality

With such massive expansions at such high elevations we believe odor issues will impact our business and be another reason to put us out of business.

Comment 23 Operation of Working Face

If BFI has a large working face this will be another reason to put us out of business due to the visual impact.

Comment 24 Dust

Because of the unusual height of the proposed landfill, dust will travel further distances and be another reason to put our health and business in danger.

Comment 25 Operating Hours, Noise and Vibrations

Lights at night, and the noise of equipment, booms to dispel birds will also put us out of business.

Comment 26 Tracking of Mud and Dirt

Mud on the streets will be a hazard for us and the guests who visit our facility.

Comment 27 Windblown Trash, Roadside Trash and Illegal Dumping

We expect more problems with all these which are bad now and will be amplified with major expansions. Yet another reason to cause our business to fail.

Melanie McFee

June 13, 2007

*MSW*  
*51757*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

JUN 20 AM 11:28

CHIEF CLERKS OFFICE

*HR*  
*OPA*

JUN 20 2007

BY DM

To:  
LaDonna Castanuela  
Office of the Chief Clerk  
MC 105, TCEQ  
PO Box 13087  
Austin, Texas 78711-3087

From:  
Melanie and Mark McAfee  
6315 Spicewood Springs Road  
Austin, Texas 78759  
512-343-0126

We would like to make comments on permit number 1447A. We would like to request a contested case hearing because we have many concerns regarding this application and the impact to our business and community.

The public health of the residents of NE Travis County is threatened by the lack of compliance with the provisions of the subject permit and the negligent failure of your agency to enforce such compliance. There have been repeated problems reported and over a long period of time.

Our business, an event facility and catering business operating in a building listed on the National Register of Historic Places, as well as a Texas Historical property and an Austin treasure, was established in 1980, before BFI got their initial permit. Our children were raised on the property just west of this permitted area. We have a daughter who has asthma - no family history. She also had one ovary removed (she is 24 years old). Another daughter who has had Bell's Palsy - a weird nerve condition that makes one side of your face droop...they don't know why....no family history. Our kids played in Walnut Creek in the 80's. Our cousin developed non-Hodgkin's Lymphoma - he worked for BFI. An employee of ours, who worked full-time, became pregnant and birthed a baby that had a heart defect. That is just our small inner circle. As we have gotten to know the neighbors, we hear about other stories. Multiple cases (I believe 4 cases) of colon cancer, another died of myelodysplastic syndrome (leukemia), the death of a 17-year-old of Hodgkin's lymphoma, a woman with 3 different cancers and multiple cases of pulmonary disease have been reported and all within a 3 block area along Walnut Creek! A baby girl was born in Harris Branch, the subdivision closest to the BFI landfill, with a malady known to be caused by herbicides. This birth defect is very, very rare and occurs only once out of approximately 150,000 births! What is happening to us?

Our business will be effectively terminated by the continued expansions in this area. In 1991, we were promised tree screening by the Special Provisions of the expansion permit 249-C. Waste Management has not met these 1991 requirements and 12 years later, BFI wants an expansion. At the height BFI plans to expand, since it will be highest point in Travis County (above sea level) it will not only be impossible to screen this from our business but impossible to screen it from the entire Northeast quadrant in town. The NE Landfills, if allowed to continue expansion, will ultimately cover the entire 1000 acres bounded by Giles Road, Blue Goose Road, Springdale Road and US 290, which is only 8 miles from the STATE CAPITOL! The community in this area has been 'invaded' and targeted under the guise that garbage has to go somewhere and targeted because it is an area of ethnic minorities and poor people. The population density of present and planned neighborhoods and the fact that the Northeast area is now an important growth corridor for Austin, the "preferred-growth-corridor," has been ignored by the process. Continuing to expand this cluster of landfills beyond their permitted lives will ultimately cost the tax-base over 24 million dollars in annual revenues that would otherwise accrue from housing developments in surrounding areas. The City Council of Austin voted, unanimously, to oppose these expansions largely on "inappropriate land-use."

*MSW*

David Samuelson, the Travis County commissioner for that precinct during the 1970's and the person responsible for getting an emergency order to stop the dumping of hazardous waste in the area, told me personally that hazardous waste was dumped over the entire area between 1970 and 1972, not just in the "Industrial Waste Unit" at the Waste Management Site but all over both the WMI and the BFI sites. He said that the "shit would hit the fan" when he testified in the case between Texas Disposal Systems and Waste Management Inc. His testimony was delayed 2 or 3 times by Waste Management and before he was able to testify, he was found dead (supposedly an accident).

There is no crisis in landfill capacity for Travis County, requiring expansion approvals for the NE Cluster Landfills before critical health questions are answered. CAPCO even states in their report dated July 2002, "while there appears to be adequate landfill capacity in the CAPCO region for the current planning period [2002-2020], there is a disparity in accessibility to these centrally located facilities for many rural residents outside of the Austin area." These regional landfills, not only serve the 10 county CAPCO region but also accept waste from 20 additional counties. Travis County essentially accepts all the CAPCO region since 6 other counties have no landfills and Williamson County can not import more than they export. Other metropolitan Counties have addressed the problem of balance between rural and more developed central counties. Houston transfers most of its waste out to sparsely developed areas, 25miles from the CBD, and uses transfer stations closer in.

This struggle is not just about the environment but about basic issues of justice and fairness, of right and wrong, of the have-nots and those with the economic power who would seek to exploit all of us. We plan to expose this situation to all of Austin's citizens and let them know that this is a liability for the Austin area not just East Austin. This environmental nightmare must end. We respectfully request that no further expansions of the NE Landfills be approved and that a full, comprehensive health investigation be done in the area.

Mark and Melanie McAfee  
Owners, Barr Mansion

TRANSMISSION VERIFICATION REPORT

TIME : 06/18/2007 13:13  
NAME : MAILBOXES  
FAX : 5124180401  
TEL :

DATE, TIME	06/18 13:12
FAX NO./NAME	2393311
DURATION	00:00:47
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

April 19, 2007

*MSW*  
*51757*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 APR 26 PM 2:42

CHIEF CLERKS OFFICE

To:  
LaDonna Castanuela  
Office of the Chief Clerk  
MC 105, TCEQ  
PO Box 13087  
Austin, Texas 78711-3087

OPA H

APR 27 2007

BY                      *(Signature)*

From:  
Melanie and Mark McAfee  
6315 Spicewood Springs Road  
Austin, Texas 78759  
512-343-0126

We would like to request to be put on the mailing list on the application from BFI Waste Systems of N. America, Inc. Their permit number is 1447A. We would like to request a public hearing because we have many concerns we would like to voice concerning this application and the impact to our business and community.

Any information regarding the co-applicant status would be appreciated also regarding the procedures for enforcement.

Please mail to our home address listed above on Spicewood Springs Road.

Thank you,

*Melanie McAfee*

*Mark McAfee*

Melanie and Mark McAfee  
Barr Mansion & Artisan Ballroom  
10463 Sprinkle Road  
Austin, Texas 78754

*MSW*

More formal oral comment (25)

# TCEQ Public Meeting Form

## BFI Waste Systems of North America, Inc. Proposed Permit MSW 1447A

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 MAY 25 AM 11:37  
CHIEF CLERK

PLEASE PRINT:

Name: MARK McAfee  
Address: 6315 Spicewood Springs  
City/State: Austin Zip: 78759  
Phone: (512) 3430126

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Northeast Action Group

### IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.  
(Written comments may be submitted any time during the meeting)

Please give this to the person at the information table. Thank you.

MW

Give formal oral comment (23)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

BFI Waste Systems of North America, Inc.

Proposed Permit MSW 1447A

CHIEF CLERKS OFFICE

2007 MAY 25 AM 11:36

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: Melanie McAfee

Address: 10463 Sprinkle Road

City/State: Austin Texas Zip: 78759

Phone: (512) 3430126

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? North East Action Group

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

MW

2007 NOV -1 PM 1:57

CHIEF CLERKS OFFICE

MSW  
5 17 57

October 30, 2007

LaDonna Castanuela, Chief Clerk  
TCEQ, MC- 105  
P.O. Box 13087  
Austin, Texas 78711- 3087

OPA H

NOV 01 2007

BY \_\_\_\_\_

RE: BFI Waste Systems of North America, Inc.  
Permit No. 1447A

Dear Ms. Castanuela:

We are Alto and Rosemary Nauert. Our address is 11,201 Aus-Tex Acres Lane, Manor, TX 78653. We live about ½ mile from the above-referenced BFI landfill.

We are affected parties who are adversely affected by the BFI landfill as it exists now, and will certainly be adversely affected by a vertical expansion of that landfill.

We dispute the finding of the Executive Director as indicated in *Comment 22* (see page 18 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A). We take issue with the Executive Director's finding as follows: "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 regulations, *the Executive Director expects human health and the environment to be protected now and in the future.*"

**Obviously the Executive Director's view of the status quo and his expectations for the future are based on faulty information.**

**Over the last fifteen years the odors have increased in frequency and density. The caustic nature of the odors adversely affects my asthmatic condition. After approximately ten years of two shots a week with my Allergist, Dr. Robert D. Cook, my condition has deteriorated. The constant exposure to these toxic odors is a growing threat to my health.**

**I travel Blue Goose Rd. five days a week on my way to work. The ability to dodge wind blown trash left by over loaded and uncovered trash trucks of mammoth**

MSW

proportions, illegally dumped trash and spillage from trailers hauling construction materials is a daily test of my driving skills.

Our most constant fear is the probability of the groundwater run off exceeding the capabilities of BFI's Leachate Management and Contaminated Water Management capabilities. Our concern for the water quality of Lake Walter E. Long is exacerbated by the decline of the fish population. As an avid fisherman I am aware that water quality reflects the state of the ecosystem. We have lived at 11,201 Aus-Tex Acres over thirty years and plan to continue in residence through our retirement years. The condition of the water, land and air are paramount to the quality of our retirement years.

We request a contested case hearing.

Sincerely,

Handwritten signatures of Rosemary and Alto Nauert, Sr. The signature of Alto Nauert, Sr. is written in cursive and is positioned above the signature of Rosemary, which is also in cursive and includes a long horizontal flourish.

Rosemary and Alto Nauert, Sr.  
11,201 Aus-Tex Acres lane  
Manor, TX 78653  
(512-272-5769)



OPA  
H NOV 06 2007  
BY KH

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV - 5 PM 2: 58

CHIEF CLERKS OFFICE

MSW  
51757

November 1, 2007

LaDonna Castanuela, Chief Clerk  
TCEQ, MC-105  
PO Box 13087  
Austin, TX 78711 3087

RE: BFI Waste Systems of North America, Inc.  
Permit No. 1447A

Dear Ms. Castanuela:

We are Evelyn and Cecil Remmert. Our address is 11815 Cameron Rd., Manor, TX 78653. We live approximately .5 mile North of the above-referenced BFI landfill, and our property line is immediately north of Blue Goose Road across from BFI.

We are affected parties who are adversely affected by the BFI landfill as it exists now, and will certainly be adversely affected by a vertical expansion of that landfill.

We dispute the finding of the Executive Director as indicated in Comment 22 (see page 18 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A). I take issue with the Executive Director's finding as follows: "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.*"

In spite of the fact that TCEQ says BFI complying with the rules, we are still dealing with odors. Just yesterday, October 31, while out in the yard picking up pecans between 12:00 and 1:15 PM, the odors were so bad that I held my breath for awhile hoping that the next breath would not be so nauseous. It was so strong that it felt like my lungs were burning. We like to have our house open as much as possible to save on energy, but we have had to shut our house to eat our lunch or dinner because of the odors. During the night when we open our windows, we can smell the odors in the house. When we are on the property directly across from BFI, we have had to wear something over our nose to breathe and to keep from getting sick in our stomach.

We also dispute the response in Comment 28 (see page 21 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A) which states that "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.*" We continually notice buzzards flying over the landfill, and they come and roost on our hay bales. Their droppings can contain infectious diseases which can be spread when the bales of hay are fed to cattle. Some of the hay is sold to other farms and ranches for cattle consumption.

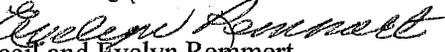
When we are in the fields near BFI, the gun shots fired to scare the birds are very startling and unnerving. The sudden shots also startle the animals if they are grazing in the field near where the shots are fired. (REF: Comment 25, page 20 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A) The commission's rules do no set specific limits on facility lighting or noise, *but the facility is prohibited from causing a nuisance under 30 TAC 330.5(a)(2).*

Mue

We dispute the response in Comment 27 (see page 21 of the Executive Director's Response to Public Comment, MSW Permit No. 1447A) ***"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."*** Windblown plastic garbage bags and papers are found on our property, and which we have to pick up before it is incorporated into bales of hay during harvest. Animals ingesting plastic bags can die. Therefore, windblown waste and materials are not controlled.

**We are requesting a contested case hearing.**

Sincerely,

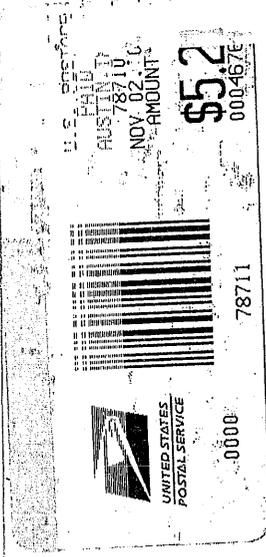
  
  
Cecil and Evelyn Remmert  
11815 Cameron Rd.  
Manor, TX 78653  
512-272-8352

11815 Cameron Rd.  
Manor, Tx 78653

**CERTIFIED MAIL**

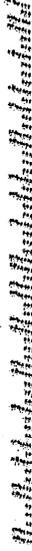


7007 2680 0000 7734 7189



LaDonna Castanuela, Chief Clerk  
TCEQ, MC-105  
PO Box 13087  
Austin, TX 78711 3087

**RECEIVED**  
NOV 05 2007  
TCEQ MAIL CENTER  
RB



787113087

Date: June 28, 2007

MSD  
51757

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

ST. LOUIS, MO  
PERMIT

To: LaDonna Castanuela, Office of the Chief Clerk? 517 57  
Texas Commission on Environmental Quality  
MC-105, PO Box 13087  
Austin, TX 78711-3087

CHIEF CLERKS OFFICE

CHIEF CLERKS OFFICE

OPA

From: Evelyn Remmert  
11815 Cameron Rd.  
Manor, TX 78653

JUL 02 2007

BY



RE: Sunset Farms Landfill, Permit No. 1447 and Proposed 1447-A, BFI Waste Systems of North America, Inc. & Giles Holdings, L.P.

I am opposed to the expansion of the BFI/Sunset Farms Landfill, and request that the Executive Director deny the above referenced permit for the following reasons:

1. These landfills are no longer compatible with the land uses in the area. This area was a rural area when these landfills were begun, but this is no longer true. There are subdivisions surrounding the landfills, and more are approved for construction in the immediate future. There is a school and a Day Care center less than 1/2 mile of BFI. Applied Materials is located across the road (not two miles away). Toll Road 130 is to bring businesses and shopping centers to the area.
2. BFI has not and can not control the odors. Our property is to the north of the landfill, separated only by Blue Goose Rd and has been in the family since the 1940's. We continually experience the nauseating odors, whether it be day or night. We try to conserve energy by not using the air conditioner as much as we can, but we have had to shut the house on several occasions in order to be able to eat our noon meal. When we are on our property trying to do our daily tasks, we have experienced odors that nauseate and make it necessary to cover our noses to breathe, or to leave the area and go inside. Children at the Day Care and the school have had to go inside because the odors were so nauseous. On June 2, 2007 I had an opportunity to be at the Park located just off campus of the Bluebonnet School. At that time, I experienced the nauseous odors that the children must experience all during the school year. Why do we want to risk our children's health to a business that is intent on making millions of dollars and has no regard for anyone's health in the area? Who will protect the citizens right to enjoy and maintain their own private property? Why do we in this area have to take time out of our schedules to make a complaint about the odors, noise, birds, the trash blowing around, and other violations at this landfill? People in the other parts of the county don't have this problem to deal with. Why do we? People in other parts of the county can expect a fair market price for their property. Our price is affected by the presence of the landfill.

me

3. Rill erosion is evident at the present site. A 75' higher expansion will make the erosion much more severe. Heavy rainfall would fill ditches along the road at Blue Goose, cause their "retention pond" to overflow, pollute streams which flow into Decker Lake, and eventually take the pollution into the Colorado River. What would happen if we have a rainfall of the magnitude that was experienced in the Marble Falls area this week? The soil in the area has a high shrink-swell potential. When the soil dries out, big cracks form that can bleed toxic gases into the air. When the rains come, large crevices can form from these cracks.
4. How can we be sure that what we are putting in this landfill will not come back to haunt us? Who is monitoring what is being dumped in the landfill to be sure BFI is in compliance? In years to come, will we find that what we now thought as safe to put into the landfill (such as dead animals, asbestos, even household wastes) becomes a big problem to our health, to our children's health? BFI will tell you they are lining the cells, but how long will it be before those liners are proven to be hazardous, or they have deteriorated to the point that they are no longer providing any protection to the ground water? We have already learned that some of the things put into these landfills in earlier years have now been determined to be very toxic, and the barrels the waste was put in have deteriorated to the point that it is even more hazardous to try to move them.
5. This landfill is located a ten minute drive to the downtown Austin area and the Capitol building of the great state of Texas. The landfill is already very visible on Toll Road 130 and Hwy 290. A 75' high expansion will make this one of the, if not the highest point in the county, and will be visible in all parts of the county. Do we want visitors to the area to remember Austin and Travis County for a mountain of trash rising above the ground?
6. BFI says that the existing capacity would take them to 2011. They say they will cease operations November 1, 2015. Then we hear a date of 2018 if they are granted the expansion they are requesting. If they have enough capacity for the 2011 date, they should withdraw this request for the 75' expansion and request only enough capacity to get them to the November 1, 2015 date based on their current rate of garbage intake.
7. All entities, both owners and operators, should be clearly and legally defined, and the application should legally commit ALL current and future owners and operators of the BFI landfill site to a firm closure date of November 1, 2015, with absolutely no extension of date for any reason, and should legally bind any sale or transfer of ownership to the terms and conditions

Approval of this expansion request will forever affect this area of the county. Even after the landfill closes, there will be environmental problems that will surface. Who will answer to violations at that time?

Please deny this extension expansion request in its entirety.

Thank You,

A handwritten signature in cursive script, appearing to read "Evelyn Remmert".

Evelyn Remmert  
11815 Cameron Rd.  
Manor, TX 78653



*Evelyn Remmert gave* (18)  
*oral comment.*

# TCEQ Public Meeting Form

Thursday, May 24, 2007

## BFI Waste Systems of North America, Inc. Proposed Permit MSW 1447A

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 MAY 25 AM 11:35  
CHIEF CLERKS OFFICE

PLEASE PRINT:

Name: CECIL & EVELYN REMMERT  
Address: 11815 CAMERON RD  
City/State: MANOR Zip: 78453  
Phone: (512) 272-8352

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

### IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*MW*



announcement months ago claimed it could be open to school children for visits). My photos show that BFI and/or WM are avidly working on covering up the back (west) side of the landfill.

For the sake of my family, my neighbors, their children, our environment, our quality of life, please listen to your constituents. We not only don't want expansion of the landfill but urgently request you to close down the landfill altogether, not in 2015, but as soon as possible. We will continue our vigilance and seek your help in finding logical solutions.

There are modern techniques for recycling trash and garbage and ways to create reuseable energy from our human detritus. Please use your collective intelligence to form policies and solutions that answer ongoing and growing landfill problems. Currently, East Travis County residents are the primary recipients of most of this metropolitan area's trash and garbage. Continuing that bias is only going to magnify current problems and produce more resentment. Allowing BFI to build their mountain 75 feet higher is not a viable solution. Allowing them seven or eight more years to expand their facility just postpones the improvement of our health and quality of life.

I leave you with a question: if you lived near this landfill, would you not be concerned? There are 100s of new houses being built around the BFI/WMI landfills as I write. Centex Builders alone is planning a new subdivision of 350 houses along Harris Branch Parkway (reportedly to start in June, 2007).

Sincerely,



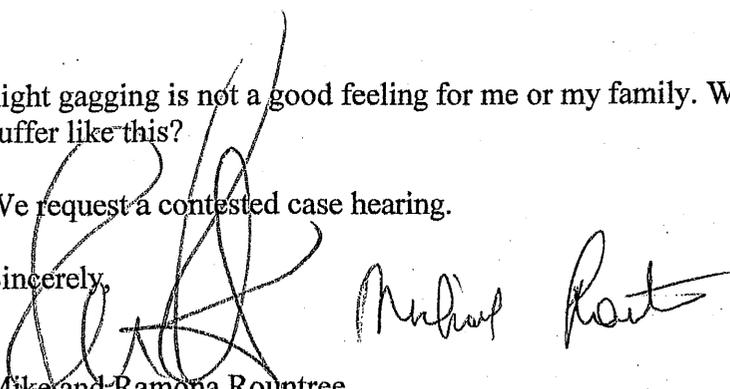
Dr. Delmer D. Rogers  
Secretary, Board of Directors  
HBRPOA  
5901 Speyside Dr.  
Manor, TX 78653-4747  
512/278-9188 (home)  
512/567-5016 (cell)  
drogue1@aol.com



night gagging is not a good feeling for me or my family. Why does my baby have to suffer like this?

We request a contested case hearing.

Sincerely,

Handwritten signatures of Mike and Ramona Rountree. The signature on the left is a large, stylized cursive signature, and the signature on the right is a smaller, more legible cursive signature.

Mike and Ramona Rountree  
6920 Thistle Hill Way  
Austin, TX 78754  
(512-272-8225)

Ramona

More formal oral comment (13)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

## BFI Waste Systems of North America, Inc. Proposed Permit MSW 1447A

PLEASE PRINT:

Name: MIKE + Ramona Rountree

Address: 6920 Thistle Hill way

City/State: AUSTIN TX Zip: 78754

Phone: (512) 272 8225

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2007 MAY 25 AM 11:34  
CHIEF CLERK'S OFFICE

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Harris Branch

### IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.  
(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

*me*

MSW  
51757

1632 Payton Falls Drive  
Austin, TX 78754  
(512-339-9001)

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV -2 AM 10:13

October 31, 2007

CHIEF CLERKS OFFICE

LaDonna Castanuela, Chief Clerk  
TCEQ, MC-105  
P. O. Box 13087  
Austin, Texas 78711-3087

OPA H

NOV 03 2007

RE: BFI Waste Systems of North America, Inc., Permit No. 1447A

BY 

Dear Ms. Castanuela:

Greetings! My name is Celeste Scarborough. I live at the address on the letterhead, located 1½ miles from the above-referenced landfill. My neighborhood is Pioneer Crossing West.

I am a member of and also represent the Board of Governors of Pioneer Farms, a living history museum that is even closer to the above-referenced landfill than that of my residence. The address of Pioneer Farms is 10621 Pioneer Farms Drive, Austin, Texas 78754 (512.837.1215).

**I am an affected party who is adversely affected by the BFI landfill as it exists now, and would certainly be adversely affected by a vertical expansion of that landfill.** In addition, the visitors to the property of Pioneer Farms, a "step back in time" to the 19th century, would have a full view of the expansion of the landfill and dramatically affect the atmosphere and visitor counts, jeopardizing the future of this historical and educational landmark.

I dispute the finding of the Executive Director as indicated in **Comment 22** (see page 18 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A). I take issue with the Executive Director's finding as follows:

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.**

At our house, we get some really strong odors which I can only attribute to the landfill. My children, ages 8 and 10, would be going to the Bluebonnet Elementary School in Manor ISD. However, after visiting that location, my husband and I decided we did not want our kids exposed to these very serious issues. The birds were just awful, and we experienced a constant smell so awful it would make my fingernails curl. We now pay over \$8000/year for education.

I request a contested case hearing.

Sincerely,

  
Celeste Scarborough

MSW

# PIONEER FARMS

AUSTIN'S PREMIER LIVING HISTORY MUSEUM

May 24, 2007

*MSW*  
*51757*

OPA

JUN 29 2007

BY *DC*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 JUN 29 PM 12:50  
CHIEF CLERKS OFFICE

To Whom It May Concern:

The Pioneer Farms Board of Governors expressly opposes any further expansion of either the Waste Management Community Landfill or the Allied BFI Landfill in northeast Travis County.

As we maintain and improve Austin's Premier Living History Museum as a vital symbol of Texas heritage, we dogmatically ascertain that increasing the height of the landfills may threaten the preservation of this historical landmark and would, in fact, provide more deterrent to visitor counts and much needed donations.

For more information, feel free to contact our museum grounds directly at (512) 837-1215 or call me direct at (512) 658-8961 on my cell phone. I would be more than please to offer you a private tour of our facilities.

Regards,

*Celeste Scarborough*

Celeste Scarborough  
Grant Coordinator  
Pioneer Farms Board of Governors

*MSW*

Done formal oral comment

(26)

# TCEQ Public Meeting Form

Thursday, May 24, 2007

BFI Waste Systems of North America, Inc.

Proposed Permit MSW 1447A

PLEASE PRINT:

Name: Celeste Scarborough

Address: 1632 Payton Falls Drive

City/State: Austin TX

Zip: 78758

Phone: (512) 339-9001

CHIEF CLERK OFFICE

2007 MAY 25 AM 11:37

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one?

PIONEER FARMS (living history museum) and  
PIONEER CROSSING (neighborhood)

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

mw

MSW  
31957

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV -5 AM 10:49

CHIEF CLERKS OFFICE

Roy Smith, Jr.  
Janet L. Smith  
11815 A Cameron Road  
Manor, Texas 78653  
(512) 251-5193

Mailing Address: 404 Split Oak, Pflugerville, TX 78660

November 1, 2007

H

OPA

NOV 05 2007

BY KY

Ms. LaDonna Castanuela, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

Subject: Request for CONTESTED CASE HEARING on BFI Waste Systems of North America, Inc. Permit No. 1447A

Dear Ms. Castanuela,

My wife Janet and I have a home on the Cecil and Evelyn Remmert property, which is approximately 2500 feet directly North of the BFI landfill in Travis County. Our reason for writing is to ask you for a CONTESTED CASE HEARING and not permit this landfill operation to expand its size either by footprint or by height.

We are affected parties who are adversely affected by the BFI Landfill currently and we will be affected even more so by a vertical expansion of that landfill.

We dispute the finding of the Executive Director as indicated in Comment 22(see page 18 of the Executive Director's Response to Public Comments, MSW Permit No 1447A) and various other findings. We take issue with the Executive Directors finding as follows: "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."

It is not realistic to expect the BFI Landfill, in it's current size or an expanded size, to operate in the future in a manner that protects human health and the environment. We are not able to reside in our house adjacent to the BFI Landfill because of the odors, airborne dust and particulate, rodents, buzzards, noise 24 hours a day, etc. It currently has a negative affect on us and our domestic animal's health and the physical environment of our property.

Our reasons for this request are so numerous that it would be impossible to express all of them. BFI has not been a good neighbor. We have regular problems ongoing. Here is a short list and reference numbers.

MSW

1. In reference to your Comment/Response #22. Horrible odors that will make you sick are present. We are approximately 2500 feet North of these properties and they have demonstrated to us on a regular basis that they cannot control their severe odor problem. The odors are consistently present on our property when the wind is out of the Southeast, which is the prevailing wind direction for this area. The odors vary in strength but are often strong enough that it makes your nose burn and make us nauseous and dizzy. The odors are present in our home and on clothing.
2. In reference to your Comment/Response #27. Airborne (windblown) trash debris that is blown on our place. Part of this property is in agricultural grass production so the debris ends up in the bales, which are used for cattle feed. The dust and fine particulate are constant and covers most surfaces on our property.
3. In reference to your Comment/Response #13 and #20. The continuous refuse truck traffic on these small roads mixed with the increased residential traffic and the traffic from major employers like Samsung has created a very dangerous situation. There have been accidents and in 2005 one of the larger trucks drove out of control, turned over and dumped its load in the curve of the road near our driveway. Additionally there are several small narrow bridges that are not wide enough for multiple commercial vehicles at once, creating a very dangerous situation. This road (Cameron Road) has become the daily route for many new residents in this area as well as bicyclists and school children and it is not sufficient to handle commercial trucking traffic. Although BFI has instructed their drivers and associates to not use this road I have documented proof that they continue to use it. I must emphasize that the situation has reached a point where this Landfill and Waste operator cannot efficiently operate their business in this area.
4. In reference to your Comment/Response #13. One of the problems that frustrate us the most is the regular degradation of the area by people that dump their waste along our roads and on our property. We take a lot of pride in this beautiful land and it is heart breaking to find a horrible load or rotting debris at the entrance to your property. The landfill is not directly responsible for this but have shown no interest in helping with this problem and if the land fill was not there these people would not be taking the cheap way out and dumping short of the landfill. Some of the reasons they do this short dumping are because of the price cost to use the landfill or they decide to cheat their employers and keep the money normally used to pay for the landfill services and dump along the road.
5. In reference to your Comment/Response #28. We have become increasingly concerned about the bird problem at the landfill. With the increase in the West Nile and bird flu problems these matters concern us because of our close proximity to the landfill and also with the schools and day care facilities so close. This is potentially a serious health problem. We have noted a decrease in the regular bird population and a serious increase in the vulture population.
6. In reference to your Comment/Response #25. The large night lights used at these landfills along with the noise is of the equipment 24 hours a day makes it impossible to sleep well. They also used some sort of explosive device 24 hours a day to scare away the birds that sounds like gunshots and will wake us up

- continuously throughout the night. It is also worth mentioning that when they temporarily scare the vultures and other trash and carcass eating birds away from the landfill they go onto the neighboring property owners property to scavenge, defecate, roost and this is not healthy and it is a hazard.
7. In reference to your Comment/Response #24, #32 and #36. The lack of vegetation on the landfill site and the mountains of soil they pile make this a very ugly sight on the horizon. The lack of vegetation is also aggravating a runoff and dust-producing problem when we have winds or heavy rains. Where does this runoff and dust end up? The dust comes onto our property.
  8. In reference to your Comment/Response #10. Registering complaints about the above items to TCEQ is very frustrating. Calls are often not answered directly and require leaving a message. Once the interviewer calls back to survey the situation and make a determination we are left feeling like the TCEQ does not care and is burdened by layers of bureaucracy that keep them from responding efficiently. Most of the time no one comes on site or it is hours later that they show up.

BFI has demonstrated that they cannot control the situation with what they are working with now at the current size. If you allow them to increase in size at this site it is going to increase windblown debris, odors, birds, noise 24 hours a day, dust, toxic runoff and unsafe truck traffic in a growing residential area.

Please do not allow this permit for expansion or any extension. At this point it would be best for NorthEast Austin and Travis County for this company to find a more appropriate place to conduct this type of business. There is waste being placed in these landfills from hundreds of miles away. A new location will not significantly impact this company. As long as it is in this location it does and will have a negative impact on thousands of people every day and definitely has a negative impact on us.

If you would like to discuss these matters with us please feel free to call us and we will be happy to share our experiences with you. We have always made this offer and up to this point no one from TCEQ has ever contacted us to discuss or investigate these matters. Our mailing address is above and our home phone number is also above. Our cellular phone numbers are listed below.

Please consider our request for a **CONTESTED CASE HEARING** on this matter and we respectfully request that you not allow this landfill a permit for an expansion in any way.

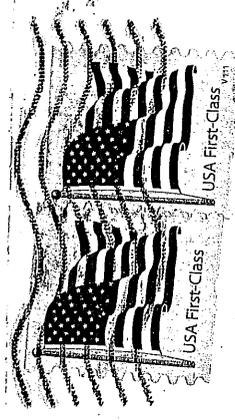
Best regards



Roy Smith, Jr.  
Janet L. Smith  
Cell 512 750-6546  
Janet L. Smith  
Cell 512 415-8829

Smiths  
404 Split Oak  
Pflugerville, TX 78660

AUSTIN TX 787  
02 NOV 2007 PM 2 T



Ms Ledonna Castaneda, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX. 78711-3087

RECEIVED  
NOV 05 2007  
TCEQ MAIL CENTER



Roy Smith gave formal oral comment (19)  
(Enow) Written Comments

# TCEQ Public Meeting Form

Thursday, May 24, 2007

## BFI Waste Systems of North America, Inc. Proposed Permit MSW 1447A

PLEASE PRINT:

Name: Roy & Janet Smith

Address: 11815 A Cameron Rd

City/State: MINOR TX

Zip: 78683

Phone: (512) 2515193

CHIEF CLERKS OFFICE

MAY 25 AM 11:35

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

OPA RECEIVED

MAY 24 2007

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

AT PUBLIC MEETING

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

I AM AGAINST THE EXPANSION OF THESE LANDFILLS.

MW.

Roy Smith, Jr.  
Janet L. Smith  
11815 A Cameron Road  
Manor, Texas 78653  
(512) 251-5193

OPA RECEIVED

H  
MAY 24 2007

AT PUBLIC MEETING

May 22, 2007

Subject: Request for CONTESTED CASE HEARING

Dear TCEQ,

My wife Janet and I have a home on the Remmert property, which is directly North of the BFI and Waste Management, landfills in Travis County. Our reason for writing is to ask you for a CONTESTED CASE HEARING and not permit these two landfill operations to expand their size either by footprint or by height. We would also like for them to honor the end of life date, which has been mandated to them for the landfills.

Our reasons for this request are so numerous that it would be impossible to express all of them. Both of these companies have not been good neighbors. We have regular problems ongoing. Here is a short list:

1. Horrible odors that will make you sick. We are North of these properties and they have demonstrated to us on a regular basis that they cannot control their severe odor problem.
2. Airborne (windblown) trash debris that is blown on our place. Part of this property is in agricultural grass production so the debris ends up in the bales, which are used for cattle feed.
3. The continuous refuse truck traffic on these small roads mixed with the increased residential traffic and the traffic from major employers like Samsung has created a very dangerous situation. There have been accidents and in 2005 one of the larger trucks drove out of control and turned over and dumped its load in the curve of the road near our driveway. Additionally there are several small narrow bridges that are not wide enough for multiple commercial vehicles at once, creating a very dangerous situation. This road (Cameron Road) has become the daily route for many new residents in this area as well as bicyclists and school children and it is not sufficient to handle commercial trucking traffic. Although BFI has instructed their drivers and associates to not use this road I have documented proof that they continue to use it. I must emphasize that the situation has reached a point where these two Landfill and Waste operators cannot efficiently operate their business in this area.
4. One of the problems that frustrate me the most is the regular degradation of the area by people that dump their waste along our roads and on our property. We take a lot of pride in this beautiful land and it is heart breaking to find a horrible load or rotting debris at the entrance to your property. The landfills are not directly responsible for this but have shown no interest in helping with this problem and if the land fill was not there these people would not be taking the

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 MAY 25 11:35  
CHIEF OFFICE

ma

cheap way out and dumping short of the landfill. Some of the reasons they do this short dumping are because of the price cost to use the landfills or they decide to cheat their employers and keep the money normally used to pay for the landfill services and dump along the road.

5. We are becoming increasingly concerned about the bird problem at the landfills. With the increase in the West Nile and bird flu problems these matters concern us because of our close proximity to the landfill and also with the schools and day care facilities so close. This is potentially a serious health problem.
6. The large night lights used at these landfills along with the dust generated by constant work there is also not acceptable to us. Their construction dust blows on our property and the source of the dust has to be unhealthy.
7. The lack of vegetation on the landfill site and the mountains of soil they pile make this a very ugly sight on the horizon. The lack of vegetation is also aggravating a runoff problem when we have heavy rains. Where does this runoff end up?

It does not make sense to increase the size of a problem that is already out of control. BFI and Waste Management have demonstrated that they cannot control the situation with what they are working with now. If you allow them to increase in size at this site it is going to increase windblown debris, odors, birds, noise 24 hours a day, dust, toxic runoff and unsafe truck traffic in a growing residential area.

Please do not allow this permit for expansion or any extension. At this point it would be best for East Austin and Travis County for these companies to find a more appropriate place to conduct this type of business. There is waste being placed in these landfills from hundreds of miles away. A new location will not significantly impact these two companies. As long as it is in this location it does have a negative impact on thousands of people every day.

If you would like to discuss these matters with us please feel free to call us and we will be happy to share our experiences with you.

Please consider our request for a **CONTESTED CASE HEARING** on this matter and we respectfully request that you not allow these landfills a permit for an expansion in any way.

Best regards,



Roy Smith, Jr.  
Cell 512 750-6546  
Janet L. Smith  
Cell 512 415-8829

MSW  
51757



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 NOV -2 AM 10: 14

Commercial Real Estate Investors and Developers

CHIEF CLERKS OFFICE

October 30, 2007

LaDonna Castanuela, Chief Clerk  
TCEQ-MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

OPA #

NOV 03 2007

BY 

Re: BFI Waste Systems of North America, Inc.  
Permit No. 1447A

Dear Ms. Castanuela:

My name is Evan Williams and I represent Williams, Ltd. and Roger Joseph. We are property owners at 5419 Blue Goose Road. Our properties adjoin the applicant's facility on the west (downhill) side. We are directly and negatively impacted by the applicant's current facility and will no doubt be affected by any expansion granted.

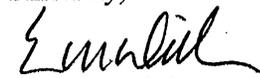
I dispute the findings of the Executive Director as indicated in Comment 33, (see page 24 of the Executive Director's Response to Public Comments, MSW Permit No. 1447A hereinafter referred to as Director's Response). I take issue with the Executive Directors findings in that the erosion controls in place are sufficient to minimize the potential for erosion on our property. Nor do the controls maintain non-erodible velocities. I would point to our fences that have been knocked down by the water flow and the substantial erosion that has taken place on our property which is down hill from the applicant. Mind you this is a problem with the existing height. Our soil loss from erosion, damage to perimeter roadways and berms are considerable.

I further dispute finding number 34 of the Director's Response. No action was taken on the applicant's part to address property damage (downed fences; etc.) until after notification from our offices. Erosion damage remains unresolved as does the condition of our perimeter roads.

Needless to say, the expansion will have a direct, negative effect on any value our property may have remaining.

I respectfully request a contested case hearing.

Sincerely,



Evan M. Williams  
524 N. Lamar Blvd., Suite 203  
Austin, TX 78703  
512.477.1277

MSW

ASW  
51757



Commercial Real Estate Investors and Developers

April 26, 2007

OPA *H*

APR 30 2007

BY *[Signature]*

TCEQ  
Office of the Clerk  
MC105, TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087

Re: BFI Waste Systems of North America, Inc., Permit No. 1447A

Sirs:

I am opposed to the above referenced expansion. We own properties adjoining, 150 feet from and 70 feet from the facility and have had many problems due to its operations. I believe the expansion would adversely affect our properties. I am hereby requesting a contested case/public hearing. I also wish to be placed on the mailing of this application.

Yours truly,

*[Signature of Evan M. Williams]*

Williams Ltd.  
Evan M. Williams, General Partner  
P.O. Box 2144  
Austin, TX 78768  
Ph: (512) 477-1277

EMW/cj

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2007 APR 30 AM 10:30  
CHIEF CLERKS OFFICE

*EMW*

ASW  
3/757

May 29, 2007

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 MAY 30 AM 9:58

CHIEF CLERKS OFFICE

Office of the Chief Clerk, MC 105

TCEQ

MC-105

P.O. Box 13087

Austin, TX

78711-3087

OPA

MAY 30 2007

BY



RE: BFI Waste Systems of North America, Inc. Permit # 1447  
Proposed Landfill Expansion Permit 1477-A

Please accept this as an amendment to my formal comments submitted in writing at the May 24<sup>th</sup> meeting.

My Brothers, Uncle and I own land immediately adjoining (as well as 100 acres across the street to the north) the BFI facility to the West (property fronts on Blue Goose Road). We are exposed to the expansion requested. Our primary issue is the likely hood of massive increase in run off from rain events. The current expansion of operating cells has raised the grade level of the property adjoining ours significantly. As a result, there has been a significant increase in storm water run off. This has resulted in washed out fences, substantial erosion and breeched dams on our stock tanks. The detention facility BFI recently constructed has done little to mitigate the problem. There is currently one fence down and I suspect that our west stock tank (rebuilt twice) will not last another rain. It has proven impossible to maintain fences along creek gaps or crossings of those areas due to significant erosion. Any commercial value remaining on our property (given the proximity to the landfill) is severely impacted by the run off and the resulting erosion.

MW

7/19/77 MAY 30 AM 9:58

CHIEF CLERKS OFFICE

In the recent public hearing, I was led to believe that the planned expansion had adequately addressed the likely hood of increased storm water run off. Imagine my surprise when the TCEQ staffer in charge of the storm water calculation (Mr. Mathew Undenewa) admitted that he had not set foot on my/our property and had no knowledge of EXISTING inadequacies of BFI's storm water retention or of the damage caused by the current situation. For that matter the Civil Engineer representing BFI was just as clueless.

As the applicant and TCEQ staff are operating under the assumption that the current expansion adequately treats the increased run off, when it clearly DOES NOT, I am skeptical that the engineering and staff review of the storm water run off mitigation for the proposed expansion in 1477-A will be anything less than another failure. It is one thing to rely on a sterile engineering criteria manual, it is another thing entirely to address issues in the field.

It goes with out saying that the odor, especially in the summer, is horrible.

The dump was there. We understood that. Any expansion of the facility will have a significant economic impact on the value of our acreage that we consider a (uncompensated) taking of our property rights.

Sincerely,



Evan Williams  
Williams, Ltd., 512.477.1277  
524 North Lamar Suite #203  
Austin, TX 78703  
Roger Joseph Properties

P.S. Please be advised that  
TCEQ & BFI staff will  
need explicit permission  
to enter our property.

# TCEQ Public Meeting Form

Thursday, May 24, 2007

## BFI Waste Systems of North America, Inc. Proposed Permit MSW 1447A

CHIEF CLERKS OFFICE

2007 MAY 25 AM 11:37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

PLEASE PRINT:

Name: Ewan Williams  
Address: ~~PO~~ 524 North Lamar Suite #203  
City/State: Austin TX Zip: 78703  
Phone: (512) 477 1277

Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.

May 24, 2007

TCEQ

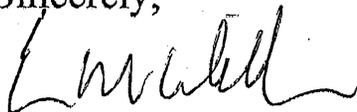
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Sincerely,



Evan Williams  
Williams, Ltd., 512.477.1277  
Roger Joseph Properties

OPA RECEIVED

MAY 24 2007

AT PUBLIC MEETING

524 N. Lamar Suite #203  
Austin TX 78703

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2007 MAY 25 AM 11:37  
FILED OFFICE OF TCEQ

MW