

TJFA, L.P.

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

February 15, 2007

Ms. LaDonna Castañuela
Chief Clerk
Attn: Agenda Docket Clerk
MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA HAND DELIVERY

RE: BFI Waste Systems of North America, Inc.
Docket No. 2007-1774-MSW
Permit No. MSW-1447A

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 15 PM 2:25
CHIEF CLERK'S OFFICE

Dear Ms. Castañuela:

TJFA, L.P. ("TJFA") files this formal reply to the hearing request responses of BFI Waste Systems of North America, Inc. ("BFI") and the Executive Director ("ED") of the Texas Commission on Environmental Quality ("TCEQ") filed on February 1, 2008. BFI requests the TCEQ deny party status to TJFA for what BFI claims is anticompetitive purposes. The ED recommends party status conditioned on TJFA submitting additional information. This reply is responsive to both briefs, includes the additional information requested by the ED, and will show why TJFA is an affected person and that its request for party status should be granted. The Office of Public Interest Counsel has already recommended that TJFA's request for a contested case be granted and that TJFA be designated an affected person. Furthermore, TJFA has been designated an affected person by SOAH in two other municipal solid waste landfill permit contested case hearings in the past 16 months.

BFI objects to TJFA's party status because it believes TJFA is a competitor of BFI's. TJFA is a limited partnership with Bob Gregory as its limited partner. Mr. Gregory also owns a controlling interest in corporations that compete with BFI in waste collection, recycling, composting and disposal. Those corporations that compete with BFI have no ownership or control in TJFA. Although BFI claims this arrangement undermines the intent and purpose of the rules governing affected persons and standing, BFI cannot cite a rule or prior decision to support their position. To the contrary, this precise issue was already raised in two other SOAH hearings regarding municipal solid waste permit numbers 66B in Comal County in October 2007 and 1405B in Williamson County in August 2007. In both hearings the SOAH Administrative Law Judge granted TJFA party status, after being fully informed of the association of Mr. Gregory with the companies the applicants considered their competitors, as well as after the applicant's attorneys had argued that TJFA's affected party status should be denied because of Mr. Gregory's relationship to TJFA and because of TJFA's real estate investment philosophy.

TJFA is a separate legal entity created under the laws of Texas (Exhibit A). TJFA is not a competitor of BFI. TJFA is not in the landfill, waste hauling, or recycling business, nor does it own land or authorizations directly related to these businesses. TJFA invests in real estate near landfills, including the TDS landfill. TJFA derives rental income from its properties. Neither Mr. Gregory nor myself have attempted to conceal our relationship with any of these companies or that TJFA is managed out of an office managed by TDS. BFI is aware of TJFA's business model, since it has the complete deposition of Bob Gregory in his capacity then as limited partner and President of the general partner of TJFA. Please see page 37, lines 1-8 of the attached deposition (Exhibit B).

BFI acknowledges TJFA is the owner of two properties located within one mile of the BFI Sunset Farms landfill (See Map Exhibit C) and that both properties were purchased prior to the filing of their permit amendment application. One property is approximately 11 acres located across the street (less than 100 feet) from the landfill at 5510 Blue Goose Road (Exhibit D). The other property is a residence on about 5 acres located at 9900 Springdale Road, which is approximately 3,500 feet from the landfill (Exhibit E). TJFA submitted comments on June 15, 2007 and November 5, 2007 that properly raised issues involving alleged operational flaws and regulated impacts such as surface water run-off, groundwater contamination, landfill gas migration, odor, dust, vectors, windblown debris, etc. TJFA respectfully requests that all these issues be referred to SOAH for consideration in the contested case hearing. TJFA property rights are protected from these regulated impacts the same way other protestants' property rights are protected. TJFA claimed interests are the same interests commonly articulated by landowners who are routinely granted party status in other permit proceedings. TJFA joins a large number of other affected persons seeking a contested case hearing and affected person status in the process.

TCEQ rules say an affected person may request a contested case hearing. An affected person is defined in 30 TAC §55.203(a) as one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. The TCEQ rules in 30 TAC §55.203(c) also includes a non-exclusive list of factors to be considered in determining whether one is an affected person. This list includes:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;

- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

This rule clearly allows TJFA to protect the use of its property and other economic interests by continuing to use, enjoy, and lease its property at fair market values free of negative impacts by an improperly permitted or operated landfill. The potential negative impacts to the property give TJFA standing as an affected party under 30 TAC §55.203(c)(3) and (4).

BFI complains TJFA's participation in this contested case is motivated by an anticompetitive purpose. However, BFI cannot cite to any rule which allows the motive of an individual associated with TJFA to be considered as a basis to determine an affected party. Clearly, the factors listed above in 30 TAC §55.203 do not identify motive as a determining factor. TJFA is motivated to challenge landfill permit, amendment and modification applications near its properties that it believes do not meet the TCEQ rules. Conversely, TJFA does not challenge applications it believes meets the TCEQ rules. For example, TJFA owns property within one mile of the Waste Management of Texas, Inc. Covell Gardens landfill in San Antonio. When an application to expand that landfill was filed, TJFA came to the opinion the application met the TCEQ rules, so it did not challenge the application. TJFA only challenges applications which it believes fail to meet the letter and intent of regulatory requirements necessary to qualify for a permit, a permit amendment or a permit modification.

The ED's conditional recommendation to grant TJFA party status is contingent on providing information regarding the use of the property, information showing the location of the property, and information showing that I, Dennis Hobbs, have authority to act on behalf of TJFA. In TJFA's submittals on June 15, 2007 and November 5, 2007, relevant and material issues affecting the use and enjoyment of its properties were raised by TJFA as identified in ED's response. TJFA specifically stated these material issues would adversely impact the use of the property by TJFA. This interest bears a reasonable relationship to the regulated activity. This impact on TJFA's use meets the factors for an affected person under 30 TAC §55.203(c)(4).

TJFA's property is located at the street addresses identified above. As stated in BFI's and TJFA's comments, the properties are within one mile of the landfill. In fact, the comments made clear the Blue Goose Road property is right across the street from the landfill which happens to be about 100 feet away. Copies of the tax appraisals and deeds are attached as evidence of TJFA's ownership.

TJFA is a limited partnership with no employees and with Mr. Gregory currently the only limited partner. TJFA is managed by the general partner Garra de Aguila, Inc. I am now the President of the general partner Garra de Aguila, Inc. I am authorized to act on behalf of TJFA at this time, as its President, and at the time I submitted written comments in the past, as its Executive

Ms. LaDonna Castañuela
Chief Clerk
February 15, 2008
Page 4

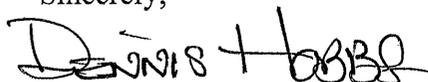
Vice President. While I am employed by Texas Disposal Systems, Inc., a company engaged in the collection and transportation of solid waste and recyclables, and I office in the same building as Mr. Gregory, I was not acting on behalf of Texas Disposal Systems when submitting the TJFA comments to the TCEQ. I am compensated for my duties as the president of the general partner, Garra de Aguila, Inc.

BFI also requests that if TJFA is granted party status, that it be "provided great latitude to engage in discovery of TJFA and its principals (including the true purpose and practices of the entity and its principals) before any determination is made as to TJFA's party status." I am not sure what BFI intends by this request, since motive is not an issue in this matter. My understanding is that all relevant discovery is allowed under the Texas Rules of Civil Procedure. If BFI, by its statement, is requesting to go beyond the reach of the rules, its request should be denied. BFI should not be allowed to use the discovery process to gain confidential information about corporations unrelated to TJFA other than through a common individual owner.

In other contested case proceedings TJFA acted within the scope of the rules. There were no claims by SOAH of abuse of the process against TJFA, although the applicants sought to have half of the transcript costs assessed against TJFA. In response, the ALJs in the Williamson County Landfill hearing, had this to say about TJFA, "If the Protestants' concerns were frivolous, or if their examination of witnesses was unduly repetitive or irrelevant, fairness would require that they bear all or at least a large share of the expenses. That is not the case in this proceeding...the issues raised by the Protestants were reasonable and well presented." BFI can expect the same from TJFA.

Therefore, TJFA asks that BFI's objections to TJFA's party status be denied and that BFI's request for discovery beyond the rules be also denied. In the alternative, should the commission grant greater latitude to BFI in discovery, TJFA requests the same consideration in its discovery related to relationships existing between BFI and Giles Holdings, and the TCEQ Executive Director and Commissioners. TJFA further requests the Commissioners find that the ED's conditions were satisfied. Furthermore, TJFA asks that the Commissioners designate TJFA as a party to the matter listed above.

Sincerely,



Dennis Hobbs
President
Garra de Aguila, Inc.

Exhibits

MAILING LIST
BFI WASTE SYSTEMS OF NORTH AMERICA, INC.
DOCKET NO. 2007-1774-MSW; PERMIT NO. 1447A

FOR THE APPLICANT:

Brad Dugas
South Central Texas District Manager
BFI Waste Systems of North America,
Inc.
4542 Southeast Loop 410
San Antonio, Texas 78222-3925
Tel: (210) 648-5222
Fax: (210) 648-5227

FOR THE EXECUTIVE DIRECTOR:

Steve Shepherd, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512-239-6377

FOR OFFICE OF PUBLIC ASSISTANCE

Ms. Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

REQUESTERS:

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

The Honorable Kirk Watson
P.O. 12068
Austin, TX 78711-2068

Kathryn E. Albee
11406 Birchover Lane
Austin, TX 78754

Ed Attra
1613 Brushy View Cove
Austin, TX 78754

Jeremiah Bentley
12100 Kilmartin Lane
Manor, TX 78653

Lionel Bess
4713 Fort Moultrie Lane
Austin, TX 78754

Joyce Best
4001 Licorice Lane
Austin, TX 78728

Tony Buonodono
11105 Seay Street
Austin, TX 78754-5766

Terry Cainal
11017 Reliance Creek Drive
Austin, TX 78754

Mary W. Carter
Blackburn Carter PC
4709 Austin St
Houston TX 77004-5004

Dennis L. Hobbs
P.O. Box 17126
Austin, TX 78760-7126

Lee Cook
9500 E Highway 290
Austin, TX 78724-2316

Sean Cottle
11009 Silo Valley Drive
Austin, TX 78754

Chuck Dabbs
11410 Birchover Lane
Austin, TX 78754

James Daniel
11333 Averting Lane
Austin, TX 78754

Jocelyn Doherty
1103 Byers Lane
Austin, TX 78753

B Trek English
3616 Quietie Drive
Austin, TX 78754-4927

B. Trek English
3705 Toby Court
Arlington, TX 76001

Melisaa Fields
3521 Long Day Drive
Austin, TX 78754-5921

Tim Fleetwood
9011 Magna Carta Loop
Austin, TX 78754

David Gunlock
8004 Brown Cemetery Road
Manor, TX 78653-4986

Cam Junker
11709 Lansdowne Road
Austin, TX 78754-5817

REQUESTERS:

Ron Junker
11709 Lansdowne Road
Austin, TX 78754-5817

Mary Lehman
110 E. 37th Street
Austin, TX 78705

Nora Longoria
7005 Dagon Drive
Austin, TX 78754-5762

Pam Littig
11105 Seay Street
Austin, TX 78754-5766

James Marchak
6300 Thirlmare Court
Austin, TX 78754

Anne C. McAfee
4831 Timberline Drive
Austin, TX 78746

Mark & Melanie McAfee
6315 Spicewood Springs Road
Austin, TX 78759

Alto S. & Rosemary Nauert
11201 Aus Tex Acres Lane
Manor, TX 78653-3646

Sherry Pyle
1509 Payton Falls Drive
Austin, TX 78754

Georgia Rich
1609 Brushy View Cove
Austin, TX 78754

Delmer D. Rogers
5901 Speyside Drive
Manor, TX 78653

Amy Kersten
9038 Wellesley Drive
Austin, TX 78754-5016

Weldon Long
2118 S. Congress Avenue
Austin, TX 78704

Allan Luttig
11105 Seay Street
Austin, TX 78754-5766

Amber Luttig-Buonodono
11105 Seay Street
Austin, TX 78754-5766

Rebecca Martinez
1613 Brushy View Cove
Austin, TX 78754

Mark McAfee
10463 Sprinkle Road
Austin, TX 78754-9604

Susan Morgan
1611 Brushy View Cove
Austin, TX 78754

Dan Pyka
8807 Newport Lane
Austin, TX 78754

Cecil & Evelyn Remmert
11815 Cameron Road
Manor, TX 78653-9792

Merry Rightmer
6305 Thirlmare Court
Austin, TX 78754

Mike & Ramona Roundtree
6920 Thistle Hill Way
Austin, TX 78754

REQUESTERS:

Celeste Scarborough
1632 Payton Falls Drive
Austin, TX 78754

Janet & Roy Smith, Jr.
11815 Cameron Road
Manor, TX 78653

Vu Tran
6854 Thistle Hill Way
Austin, TX 78754

Roland Valles
8805 Newport Lane
Austin, TX 78754

Karen Vest
5917 Boyce Lane
Manor, TX 78653

Murk Wilkerson
5909 Boyce Lane
Manor, TX 78653

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

Amy Williamson
11017 Reliance Creek Drive
Austin, TX 78754

Jefferey Seider
6605 Carisbrooke Lane
Austin, TX 78754

Cloyce Spradling
5913 Boyce Lane
Manor, TX 78653

Elizabeth Trevino
12209 Little Fatima Lane
Austin, TX 78753

Jeremy Vest
5917 Boyce Lane
Manor, TX 78653

Alfred Wendland
16519 Mahlow Road
Manor, TX 78653-3529

David Williams
11604 Rydalwater Lane
Austin, TX 78754

Evan M. Williams
P.O. Box 2144
Austin, TX 78768

Michael S. Young
8901 Newport Lane
Austin, TX 78754

EXHIBIT A

CERTIFICATE OF LIMITED PARTNERSHIP

FILED
In the Office of the
Secretary of State of Texas

OF

NOV 29 2004

TJFA, L.P.

Corporations Section

The undersigned general partner, being desirous of forming a limited partnership pursuant and subject to the Texas Revised Limited Partnership Act, does hereby certify as follows:

1. The name of the limited partnership is TJFA, L.P. (the "Partnership").
2. The address of the Partnership's registered office and the principal office shall be 100 Congress Avenue, Suite 1300, Austin, Texas 78701-2744.
3. The name and address of the Partnership's registered agent for service of process is as follows:

Kimberly S. Beckham
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744

4. The books and records of the Partnership are kept at its principal office for purposes of inspection.

5. The name, mailing address and street address of the business of the general partner are as follows:

Garra de Aguila, Inc.
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744

IN WITNESS WHEREOF, the undersigned have signed this Certificate of Limited Partnership this 19th day of November, 2004.

GENERAL PARTNER:

GARRA de AGUILA, INC., a Texas corporation

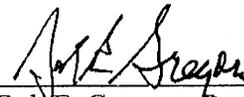
By: 
Bob E. Gregory, President

EXHIBIT B

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
(FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)
AUSTIN, TEXAS

IN THE MATTER OF:) SOAH DOCKET NO.
WILLIAMSON COUNTY RECYCLING) 582-06-3321
& DISPOSAL FACILITY) TCEQ DOCKET NO.
) 2005-0037-MSW

ORAL DEPOSITION OF BOBBY EDWARD GREGORY

TUESDAY, NOVEMBER 7, 2006

ORAL DEPOSITION OF BOBBY EDWARD GREGORY,
produced as a witness at the instance of TJFA, LP, and
duly sworn, was taken in the above-styled and numbered
cause on Tuesday, November 7, 2006 from 1:30 p.m. to
4:41 p.m., by William C. Beardmore, a Certified
Shorthand Reporter in and for the State of Texas,
reported by computerized stenotype machine at the
Offices of Vinson & Elkins, 2801 Via Fortuna, Suite
100, Conference Room, Austin, Texas 78746-7568,
pursuant to the Texas Rules of Civil Procedure.

Page 2

1	APPEARANCES
2	
3	MR. JOHN A. RILEY, Vinson & Elkins, LLP,
4	2801 Via Fortuna, Suite 100, Austin, Texas 78756-7568,
5	(512)542-8520, appearing on behalf of WASTE MANAGEMENT
6	OF TEXAS, INC.
7	
8	MR. R. MARK DIETZ, Dietz & Jarrard, P.C., 106
9	Fannin Avenue East, Round Rock, Texas 78664,
10	(512)244-9314, appearing on behalf of the APPLICANT,
11	WILLIAMSON COUNTY.
12	
13	MR. LAWRENCE G. DUNBAR, Dunbar, Harder &
14	Benson, LLP, One Riverway, Suite 1850, Houston, Texas
15	77056, (713)782-4646, appearing on behalf of TJFA, LP.
16	
17	MR. ANTHONY TATU, Staff Attorney, Texas
18	Commission on Environmental Quality, MC-173 P.O. Box
19	13087, Austin, Texas 78711-3087, (512)239-4761,
20	appearing on behalf of THE EXECUTIVE DIRECTOR OF THE
21	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.
22	
23	DR. ORLYNN EVANS, 112 Guadalupe Dr., Hutto,
24	Texas 78634, appearing on behalf of MOUNT HUTTO AWARE
25	CITIZENS.

Page 3

1	APPEARANCES
2	
3	Also present:
4	Nicole Adame Winningham, Attorney, Vinson & Elkins
5	Chris Macomb, Governmental Affairs Director with
6	Waste Management of Texas
7	Ruth Muelker, Sr. Legal Counsel, Waste Management
8	Don Smith, Vice President of Waste Management of
9	Texas, Inc.
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

Page 4

1	TABLE OF CONTENTS	
2	PAGE	
3	TELEPHONE CONFERENCE (Judge Seitzman and Parties)	9
4	DEPOSITION OF BOBBY EDWARD GREGORY	5/23
5	EXAMINATION (RILEY)	23
6	EXAMINATION (EVANS)	117
7	JURAT	124
8	REPORTER'S CERTIFICATE	125
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 5

1	PROCEEDINGS
2	TUESDAY, NOVEMBER 7, 2006
3	(1:30 p.m.)
4	MR. RILEY: Mr. Dunbar?
5	MR. DUNBAR: I'm Larry Dunbar
6	representing TJFA, and I just wanted to make it clear
7	and get an understanding of who's in attendance at
8	this deposition and who'll be taking the deposition.
9	MR. RILEY: Under what rights do you
10	have to gain that information?
11	MR. DUNBAR: My understanding is, my
12	client has agreed to take the deposition or have a
13	deposition taken on behalf of Williamson County who's
14	a party --
15	MR. RILEY: In fact, I have a transcript
16	from the preliminary hearing.
17	MR. DUNBAR: -- who is a party to this
18	deposition -- a party of this proceeding. And we're
19	more than happy to give the deposition based upon
20	questions asked of a party to this proceeding or its
21	designated counsel.
22	MR. RILEY: Waste Management was
23	accepted by the Administrative Law Judge in this
24	matter. Are you objecting?
25	MR. DUNBAR: As what?

Page 6

1 MR. RILEY: It's on the record.
 2 MR. DUNBAR: As what?
 3 MR. RILEY: It's on the record.
 4 MR. DUNBAR: Well, my understanding is,
 5 the Administrative Law Judge has not accepted Waste
 6 Management as a party.
 7 I have the order from the Administrative
 8 Law Judge, and on the very first page it talks about
 9 who the parties are and I don't see Waste Management
 10 as designated as a party.
 11 MR. RILEY: Are you denying that the
 12 Administrative Law Judge is allowing Waste Management
 13 to participate in support of this application?
 14 MR. DUNBAR: I have no idea what the
 15 Administrative Law Judge is doing, other than I don't
 16 see Waste Management being a party.
 17 I'm more than happy to have any party
 18 attend this deposition and ask questions of my client.
 19 MR. RILEY: Then I'll ask questions on
 20 behalf of Williamson County.
 21 MR. DUNBAR: If you want to say here
 22 that you represent Williamson County, then that's
 23 fine.
 24 MR. RILEY: I represent Waste Management
 25 as I described at the preliminary hearing.

Page 7

1 MR. DUNBAR: I'm sorry. If you don't
 2 represent Williamson County, then we need counsel for
 3 Williamson County to ask questions or any other party
 4 who wants to ask questions.
 5 MR. RILEY: Then I guess we're done --
 6 MR. DUNBAR: Okay.
 7 MR. RILEY: -- and we'll seek sanctions
 8 from the Administrative Law Judge.
 9 MR. DUNBAR: Not a problem. Is there
 10 any other party who wants to ask questions?
 11 MR. RILEY: I don't know.
 12 MR. DUNBAR: Williamson County, Mark
 13 Dietz?
 14 MR. RILEY: We're paying for the
 15 deposition. So --
 16 MR. DUNBAR: Mark Dietz, would you like
 17 to ask questions on behalf of Williamson County?
 18 MR. DIETZ: I will have questions, but
 19 we're also going to rely upon questions by the
 20 operator at the outset of this proceeding.
 21 MR. DUNBAR: But they are not a party to
 22 this proceeding.
 23 MR. RILEY: What is the nature of your
 24 objection, sir?
 25 MR. DUNBAR: That Waste Management is

Page 8

1 not a party to this proceeding and, therefore, is not
 2 entitled to depose my client. I'm sorry.
 3 MR. RILEY: Waste Management was
 4 described on the record to the Administrative Law
 5 Judge.
 6 In fact, I have it right in front of me
 7 where the Administrative Law Judge granted me the
 8 authority to take Mr. Gregory's deposition. You were
 9 there. You know this very well.
 10 MR. DUNBAR: My understanding -- and I
 11 talked with Mark Dietz about --
 12 MR. RILEY: If you would like us to go
 13 back to the Administrative Law Judge and seek
 14 clarification --
 15 MR. DUNBAR: I would like that.
 16 MR. RILEY: -- and seek sanctions --
 17 MR. DUNBAR: Whatever you need to do.
 18 MR. RILEY: -- we'll be happy to do so.
 19 MR. DUNBAR: Whatever you need to do.
 20 I'm willing to have the deposition of my client taken
 21 by Williamson County or its designated attorney,
 22 Mr. Mark Dietz, who is present or any other party
 23 who's here who would like to ask questions by their
 24 counsel, no problem with that.
 25 I do have a problem with Waste

Page 9

1 Management.
 2 MR. RILEY: Let's see if we can get the
 3 Administrative Law Judge on the phone. There are
 4 other parties here. Does anybody else have an
 5 objection to us taking this deposition?
 6 (No response)
 7 MR. RILEY: No objection.
 8 MR. DUNBAR: That's fine.
 9 MR. RILEY: Why don't we see if we can
 10 get the ALJ on the phone.
 11 MR. DUNBAR: Not a problem.
 12 (Off the record - 1:34 p.m. to
 13 2:02 p.m.)
 14 (Whereupon, a telephone conference with
 15 SOAH ALJ Howard Seitzman, along with the parties, took
 16 place as follows:)
 17 TELEPHONE CONFERENCE
 18 MR. RILEY: Judge, this is John Riley.
 19 Let me begin again by putting my appearance on the
 20 record. Then I guess we'll take turns from there.
 21 JUDGE SEITZMAN: Okay.
 22 MR. RILEY: My name is John Riley. I'm
 23 with the law firm of Vinson & Elkins. I represent
 24 Waste Management of Texas, Inc., which is an operator
 25 of the Williamson County landfill.

1 And pursuant to TCEQ rules and an
 2 agreement with Williamson County, Waste Management
 3 filed the application in this matter. Mr. Dietz, here
 4 next to me, will introduce himself now.
 5 MR. DIETZ: I'm Mark Dietz of the law
 6 firm of Dietz & Jarrard in Round Rock representing the
 7 Applicant, Williamson County.
 8 JUDGE SEITZMAN: Okay.
 9 MR. DUNBAR: Judge, Larry Dunbar with
 10 Dunbar, Harder & Benson representing TJFA, LP.
 11 MR. TATU: Anthony Tatu, here on behalf
 12 of the Executive Director of the TCEQ.
 13 JUDGE SEITZMAN: All right.
 14 DR. EVANS: Orlynn Evans. I'm one of
 15 the parties to the hearing.
 16 JUDGE SEITZMAN: Dr. Evans. I'm
 17 cheating. I've got the service list in front of me.
 18 MR. DUNBAR: And, Judge, we have a few
 19 observers from Waste Management, I believe, in
 20 attendance as well as Bob Gregory, who's with TJFA and
 21 the deponent, in this particular proceeding.
 22 JUDGE SEITZMAN: Okay.
 23 MR. RILEY: Judge, let me introduce the
 24 issue and then, of course, other counsel may have a
 25 differing perspective on it, but I'll at least try to

1 be fair to other parties.
 2 The preliminary hearing in this matter
 3 was held in front of Judge Vickery on October 26,
 4 2006. I appeared and introduced myself much as I have
 5 for the purposes of this conference call.
 6 There was no objection to Waste
 7 Management's participation in the hearing in support
 8 of Williamson County's application as I mentioned.
 9 There are TCEQ rules and a contract with
 10 Williamson County that bear on that question and
 11 create an obligation -- by an obligation in Waste
 12 Management to file the application and support the
 13 application throughout the process.
 14 The parties were designated at the
 15 hearing. TJFA or TFJA -- I'm --
 16 JUDGE SEITZMAN: TJFA is what I have.
 17 MR. RILEY: -- TJFA was admitted
 18 provisionally as a party. And the discussion on the
 19 record in front of Judge Vickery was as to whether
 20 that entity is an affected person under the TCEQ
 21 rules.
 22 Given a somewhat novel or at least a bit
 23 unique situation, Judge Vickery gave us leave to
 24 conduct some limited discovery regarding that entity
 25 and then brief the issue as to whether it should be

1 admitted as an affected person.
 2 JUDGE SEITZMAN: I have the
 3 preliminary -- the order memorializing the preliminary
 4 hearing in front of me.
 5 MR. RILEY: Okay. And there was an
 6 agreement to have a deposition today for an
 7 hour-and-a-half of the representative of -- I'm just
 8 going to avoid the letters -- the representative of
 9 that entity.
 10 And when we began to take the
 11 deposition, Mr. Dunbar objected to my questioning of
 12 Mr. Gregory on the grounds that I was not -- or that
 13 Waste Management was not a party to the case.
 14 Mr. Dietz is here by agreement with
 15 Williamson County. Waste Management will assist the
 16 Applicant in prosecution of the application. And,
 17 frankly, we're a little bit mystified as to the nature
 18 of the objection and why I specifically am not allowed
 19 to question the witness, as I did, frankly, during the
 20 preliminary hearing under oath in front of
 21 Judge Vickery directly.
 22 Mr. Dietz?
 23 MR. DIETZ: Judge, the Applicant has
 24 relied upon Waste Management and its counsel, Vinson &
 25 Elkins, in this process and relies on their expertise

1 both in the engineering review and also in going
 2 forward with the contested case hearing.
 3 By virtue of that, we have a joint
 4 prosecution agreement that our two law firms are going
 5 to rely upon each other in order to assure that the
 6 application is successful.
 7 That being said, during the hearing we
 8 both spoke -- both myself and in conjunction with
 9 Mr. Riley -- throughout the hearing and there was not
 10 any objection. So it was a surprise today.
 11 During our preliminary discussions
 12 before we got you on the phone there was some question
 13 as to who was going to ask questions, and I had
 14 indicated that I, perhaps, would ask questions, but I
 15 think I'm going to defer exclusively to Mr. Riley
 16 recognizing that it would probably be appropriate
 17 under the rules that one party question -- one person
 18 from a party question the deponent.
 19 That being said, we believe that by
 20 virtue of the rule that requires Waste Management to
 21 participate in conjunction with Williamson County in
 22 this application, it's appropriate that Mr. Riley be
 23 available for inquiry.
 24 JUDGE SEITZMAN: All right. Who else
 25 wants to be heard?

1 MR. DUNBAR: Judge, I do. Larry Dunbar.
 2 JUDGE SEITZMAN: Okay. Mr. Dunbar.
 3 MR. DUNBAR: The objection that I had,
 4 Judge, to an attorney not representing a party to
 5 conduct this deposition was that very fact, that
 6 nonparties should not be entitled to take discovery
 7 and ask questions in depositions.
 8 Mr. Riley has stated, I believe, that he
 9 represents Waste Management of Texas. Waste
 10 Management of Texas is not a party to this proceeding.
 11 Williamson County is a party. There are other parties
 12 here.
 13 I agreed to allow any party or their
 14 designated counsel to ask questions of my client in
 15 accordance with the rules. I do not understand and
 16 believe there's any rule that allows a nonparty to
 17 participate and ask questions in a deposition.
 18 JUDGE SEITZMAN: All right. Who else
 19 wants to be heard?
 20 MR. RILEY: There are two other parties
 21 here who expressed earlier, Judge, before we had you
 22 on the call that they had no objection to proceeding
 23 as Williamson County and Waste Management had planned,
 24 but I'll let them speak for themselves.
 25 MR. TATU: No comments on behalf of the

1 Executive Director, Judge.
 2 DR. EVANS: No comments.
 3 JUDGE SEITZMAN: Okay. Well --
 4 MR. DUNBAR: And let me just say, Judge,
 5 we don't have a problem with Mr. Riley asking
 6 questions. If he's going to indicate that he
 7 represents Williamson County who's a party, that's
 8 fine.
 9 If Mr. Dietz wants to say he represents
 10 Williamson County who's a party and he wants to ask
 11 questions instead of Mr. Riley, that's fine. But I
 12 don't think it's proper under the Texas Rules of Civil
 13 Procedure to allow nonparties to be asking questions
 14 in depositions.
 15 JUDGE SEITZMAN: Well, here's my ruling:
 16 Williamson County can designate whoever it wants to
 17 designate as its counsel of record for purposes of
 18 this limited deposition, but only one of the counsel
 19 will be entitled to ask questions.
 20 So if they designate Mr. Riley to be the
 21 questioner, then that's fine, but I'm not going to
 22 allow both Williamson County and Waste Management of
 23 Texas to both ask questions.
 24 MR. DUNBAR: And, Your Honor, if
 25 Williamson County wants to designate John Riley to

1 represent them, that's not a problem. I don't think
 2 that's been done yet.
 3 JUDGE SEITZMAN: Okay. Is that what
 4 Williamson County wishes to do, for purposes -- and
 5 we're talking for the limited purposes of this
 6 deposition?
 7 MR. DIETZ: For the limited purposes of
 8 this deposition and pursuant to the requirement under
 9 the rules that there's a joint application and we've
 10 got a joint prosecution agreement, Mr. Riley would be
 11 the questioner on behalf of the Applicant.
 12 JUDGE SEITZMAN: All right. Is there
 13 any objection to that?
 14 MR. DUNBAR: Well, I do, Your Honor,
 15 only that I don't believe Williamson County has taken
 16 that position.
 17 MR. RILEY: Mr. Dietz is the attorney
 18 for Williamson County.
 19 MR. DIETZ: That's the -- I am the
 20 lawyer representing Williamson County on the
 21 application. So I don't know how he can disagree with
 22 what I just said.
 23 MR. DUNBAR: Well, as long as Mr. Riley
 24 agrees that he is representing Williamson County in
 25 this deposition --

1 JUDGE SEITZMAN: For the limited purpose
 2 of this deposition, Mr. Riley then will be the
 3 designated counsel for Williamson County and he will
 4 be the sole representative for Williamson County who's
 5 allowed to question the witness.
 6 MR. DUNBAR: And, Your Honor, I would
 7 just like to put on the record that Mr. Riley has
 8 indicated that he is also counsel and represents Waste
 9 Management of Texas and we believe that to be a
 10 potential conflict of interest.
 11 MR. RILEY: And that's the real key
 12 here. That's what Mr. Dunbar has been trying to set
 13 up, Judge. And in spite of his efforts to do so, I
 14 will be representing Waste Management of Texas as the
 15 operator of this landfill and assisting Williamson
 16 County just as it was described on the record before
 17 Judge Vickery --
 18 MR. SEITZMAN: And you can deal with
 19 Judge Vickery on that. It seems to me that the
 20 conflict of interest is an issue to be raised by a
 21 client, not an opposing party.
 22 So that -- I don't know. Williamson
 23 County and Waste Management are -- as long as they are
 24 in agreement that Mr. Riley will be asking the
 25 questions on behalf of Williamson County at this point

1 for the limited purposes of this deposition, then I
 2 think we're ready to go.
 3 And if there's a conflict of interest,
 4 then that needs to be -- that seems to me to be raised
 5 by one of those two, but you can deal with Judge
 6 Vickery on that.
 7 MR. RILEY: Thank you, Judge. We
 8 appreciate your time.
 9 JUDGE SEITZMAN: All right. Anything
 10 further?
 11 MR. DUNBAR: Not right now, Judge.
 12 JUDGE SEITZMAN: Okay. Thank you.
 13 (Off the record - 2:12 p.m. to
 14 2:13 p.m.)
 15 MR. RILEY: Now, Mr. Dunbar, before we
 16 begin, is there any further objection you would like
 17 to put on the record to my questioning the witness?
 18 MR. DUNBAR: I've already stated my
 19 objections on the record, but I would like to have
 20 everyone in the room here to introduce themselves and
 21 indicate what their position is.
 22 MR. RILEY: Well, we'll get to that.
 23 Why don't you start with yourself. What is your
 24 position?
 25 MR. DUNBAR: I'll introduce myself.

1 Larry Dunbar with Dunbar, Harder & Benson, counsel for
 2 TJFA, LP.
 3 MR. RILEY: My name is John Riley. I'm
 4 with the law firm of Vinson & Elkins. I represent
 5 Waste Management of Texas, Inc., and I'm assisting the
 6 Applicant, Williamson County, in this matter with
 7 Mr. Dietz who sits to my left.
 8 Behind me is Nicole Winningham, also
 9 with Vinson & Elkins, an associate with our firm.
 10 Mr. Dietz?
 11 MR. DIETZ: Mark Dietz with the law firm
 12 of Dietz & Jarrard representing the Applicant,
 13 Williamson County.
 14 MS. MUELKER: Ruth Muelker, Senior Legal
 15 Counsel, with Waste Management.
 16 MR. SMITH: Don Smith, Vice President of
 17 Waste Management of Texas, Inc.
 18 MR. MACOMB: Chris Macomb, Governmental
 19 Affairs Director with Waste Management of Texas.
 20 MR. TATU: Anthony Tatu on behalf of the
 21 Executive Director of the TCEQ.
 22 DR. EVANS: Orlynn Evans, a party to the
 23 hearing, Chairman of the Mount Hutto Steering
 24 Committee.
 25 MR. DUNBAR: And just to put on the

1 record, the discussion we had with the Administrative
 2 Law Judge regarding concerns about Mr. Riley
 3 representing Waste Management of Texas and asking
 4 questions of this deposition was ruled on by the judge
 5 by having Williamson County's attorney, Mr. Dietz,
 6 designate Mr. John Riley to ask questions on behalf of
 7 Williamson County for the limited purpose of this
 8 particular deposition.
 9 Did I state that right?
 10 MR. RILEY: I'm not sure what your point
 11 is.
 12 MR. DUNBAR: I just wanted to put it on
 13 the record to make sure --
 14 MR. RILEY: It's on the record. It's
 15 already been on the record. There was a separate
 16 record made. Do you remember over there? We were
 17 just there a minute ago.
 18 Mr. Dunbar, do you have a point? Do you
 19 have some objection that you would like to express
 20 now?
 21 MR. DUNBAR: I just wanted to make that
 22 note. That's all. Thank you.
 23 MR. RILEY: Do you have some objection
 24 that you would like to further express --
 25 MR. DUNBAR: I already stated my

1 objection.
 2 MR. RILEY: -- some question on an
 3 ethical basis as to whether I can continue with this
 4 deposition?
 5 Do you have some basis on some ethical
 6 consideration that you would like to bring to my
 7 attention?
 8 MR. DUNBAR: Not at this time.
 9 MR. RILEY: At any time? Do you?
 10 MR. DUNBAR: Not at this time.
 11 MR. RILEY: Are you trying to sandbag
 12 me? Is there something you think that prohibits --
 13 MR. DUNBAR: Mr. Riley, if you would
 14 like to take the deposition, we're happy to -- we're
 15 going to go an hour-and-a-half. So I would suggest
 16 you move on.
 17 MR. RILEY: Well, I suspect we're -- I
 18 know where this is headed, but if you're not
 19 forthright enough to state your objection, then I
 20 guess I just can't address your issue.
 21 MR. DUNBAR: Okay. I stated my
 22 objections.
 23 MR. RILEY: No, you haven't. If you
 24 have some basis either under the disciplinary rules of
 25 the state of Texas for attorneys for ethical

1 considerations by which you object in me
 2 participating, and as the Judge has just said I
 3 should, then I would ask you as a professional and
 4 under your ethical obligations to make that known now.
 5 MR. DUNBAR: I put my objections on the
 6 record.
 7 MR. RILEY: You realize that if you sit
 8 there idly by and you allow me to commit an ethical
 9 violation that you're in violation of your ethical
 10 responsibilities. Do you realize that?
 11 MR. DUNBAR: I put my objections on the
 12 record.
 13 MR. RILEY: Thank you. Before we
 14 proceed, Mr. Dietz, do you have any concern with me
 15 proceeding as designated by Williamson County to take
 16 this deposition?
 17 MR. DIETZ: No.
 18 MR. RILEY: Do you know of any reason
 19 that Williamson County would object to me taking this
 20 deposition?
 21 MR. DIETZ: No.
 22 MR. RILEY: Okay.
 23
 24
 25

1 BOBBY EDWARD GREGORY,
 2 having been first duly sworn, testified as follows:
 3 EXAMINATION
 4 BY MR. RILEY:
 5 Q Mr. Gregory, please state your name and
 6 address.
 7 A My name is Bobby Edward Gregory. My address
 8 is 2939 Westlake Cove, Austin, Texas.
 9 Q "Bobby," is that your given name?
 10 A That is my given and legal name.
 11 Q In what capacity do you appear here today for
 12 this deposition?
 13 A As President of Garra de Aguila, Incorporated
 14 that serves as the General Partner of TJFA, LP.
 15 Q Garra de Aguila -- am I pronouncing that
 16 correctly?
 17 A Yes.
 18 Q Is that in the Spanish language?
 19 A Yes, sir.
 20 Q What does it mean, if you know?
 21 A I think it means -- is that what your
 22 question was?
 23 Q Yes.
 24 A I think it means talon of the eagle or
 25 something like that. It was not my name choice, but I

1 believe that's what it --
 2 Q Who chose the name?
 3 A Dennis Hobbs.
 4 Q Who is Dennis Hobbs?
 5 A He is the vice president of that company.
 6 Q And you're the president of the company.
 7 Correct?
 8 A That is correct.
 9 Q Does the company have any employees?
 10 A No, it does not.
 11 Q Is it a for-profit entity?
 12 A Yes, it is.
 13 Q Is it registered with the Secretary of State?
 14 A Yes.
 15 Q When was the company formed?
 16 A I don't recall exactly. I think we
 17 determined in the hearing the other day that TJFA was
 18 in 2004, approximately two years ago.
 19 Q But I was speaking of Garra de Aguila.
 20 A I think it was about the same time. So I
 21 assume it was about that period.
 22 Q What type of business is Garra de Aguila?
 23 A It's a real estate development and investment
 24 company.
 25 Q Why did you form Garra de Aguila?

1 A For real estate investment.
 2 Q Has Garra de Aguila made any real estate
 3 purchases?
 4 A It is a holding company for different
 5 investments including its general partnership position
 6 in TJFA, LP.
 7 MR. RILEY: Objection, nonresponsive.
 8 Q (By Mr. Riley) I asked you a simple
 9 question, Mr. Gregory. I know you've had your
 10 deposition taken before, and if you can answer my
 11 question with either a "yes" or "no" truthfully, I
 12 would appreciate it if you would do so.
 13 MR. DUNBAR: I'll object to badgering my
 14 client.
 15 MR. RILEY: Okay.
 16 Q (By Mr. Riley) Okay. Does Garra de Aguila
 17 have any real estate holdings?
 18 A Not that I recall.
 19 Q You mentioned that Garra de Aguila, then, is
 20 a holding company and is the general partner in
 21 another entity. Is that correct?
 22 A That is correct.
 23 Q And that's TJFA?
 24 A That's correct.
 25 Q Who are the other partners in TJFA?

1 A Right now I am the only limited partner in
 2 TJFA.
 3 Q So the general partner is Garra de Aguila in
 4 which you're the president, and the only other partner
 5 in TJFA is you, yourself, as an individual?
 6 A That's correct.
 7 Q Okay. Is there a Board for Garra de Aguila?
 8 A There is a president and a vice president and
 9 secretary, and that is Dennis Hobbs and myself.
 10 Q Who's the secretary?
 11 A I believe Dennis Hobbs is.
 12 Q Is Dennis Hobbs otherwise an employee of
 13 yours?
 14 A He is.
 15 Q In what capacity?
 16 A He serves as an assistant to virtually
 17 everything that I deal with, all the businesses and
 18 nonprofit organizations that I'm involved in.
 19 Q Assistant to you, then, personally -- a
 20 personal assistant?
 21 A He is a personal assistant to me in all of
 22 the businesses and nonprofit organizations that I'm
 23 involved in.
 24 Q Does he draw a paycheck?
 25 A He does draw a paycheck, yes.

1 Q And what from what entity does he draw a
 2 paycheck?
 3 A Texas Disposal Systems, Inc.
 4 Q How much is he paid?
 5 A I don't recall. Just under \$100,000, I
 6 believe.
 7 Q Does he have a title with Texas Disposal
 8 Systems, Inc.?
 9 A He's my assistant.
 10 Q Is that the full extent of his title?
 11 A I believe that is his title.
 12 Q How long have you known Mr. Hobbs?
 13 A Since the early '80s, I guess.
 14 Q How long has he worked for you?
 15 A Since 1987, I believe.
 16 Q Texas Disposal Systems, Inc. is an entity you
 17 mentioned. What is the nature of that entity's
 18 business?
 19 A Of Texas Disposal Systems, Inc?
 20 Q Yes, sir.
 21 A Texas Disposal Systems, Incorporated is a
 22 hauling company that it has contracts throughout
 23 Central Texas and is in the hauling/collection
 24 business for solid waste and recyclables.
 25 Q How long has -- may I call it "TDS"? Do you

1 know what I'm referring to if I refer to it as "TDS,
 2 Inc"?"
 3 A Yeah. Let me just point out that often we
 4 refer to the company as "TDS" meaning Texas Disposal
 5 Systems, Inc. and Texas Disposal Systems Landfill,
 6 Inc. and even some of the other operation companies.
 7 So I'll ask you to help me keep them
 8 separate. I'm not going to try to confuse it and I
 9 don't think you're going to try to confuse it.
 10 So if you ask me a generic question
 11 about TDS, I'm not exactly sure you're going to --
 12 we'll try to figure it out as we go. Okay?
 13 Q Fair enough.
 14 A Okay.
 15 Q So far we have TDS, Inc. as the hauling
 16 company and the collection business?
 17 A Correct.
 18 Q Are there any other TDS entities other than
 19 TDS, Inc. and TDS Landfill, Inc?
 20 A They are the only ones that carry that in
 21 their name. Texas Disposal Systems Landfill,
 22 Incorporated you mentioned is the company that owns
 23 land where the landfill is in southeast Travis
 24 County, owns the permit and owns some other permits
 25 related to transfer stations.

1 The other entities generally referred to
 2 as "TDS" are Texas Landfill Management, a company that
 3 operates those permitted facilities. So those are
 4 kind of the three main ones that are generally
 5 referred to often by many as TDS.
 6 Q Let me see if I can get the TDS corporate
 7 structure as best I can clear. Are any of the TDS
 8 entities a parent over the other?
 9 A No, they are separate corporations.
 10 Q They are all separate corporations?
 11 A That's correct.
 12 Q Are you president of all three or -- excuse
 13 me -- all the TDS corporations?
 14 A I'm president of all three of those
 15 corporations, yes.
 16 Q Okay. And if I understood you correctly,
 17 then, TDS, the physical landfill, is owned by TDS
 18 Landfill, Inc. Is that correct?
 19 A That's correct.
 20 Q But TDS Landfill Management Company is the
 21 operator of that landfill?
 22 A It's not TDS Landfill. It's just called
 23 "Texas Landfill" --
 24 Q I'm sorry.
 25 A -- TLM, "Texas Landfill Management,

Page 30

1 Incorporated."

2 Q If I refer to that as "TLM," we'll know what

3 we're talking about?

4 A That's correct.

5 Q All right.

6 A TDSL is the landfill -- that may be easier --

7 and TDS is the hauling company and TLM is the

8 management company of the permitted facility.

9 Q Okay. So I think we can work with those.

10 A That will be easier.

11 Q All right. I want to go back to Mr. Hobbs

12 just briefly. Is it still accurate to say that he is

13 paid by TDS?

14 A Yes.

15 Q Does he receive any compensation from any

16 source that you're aware of or that you're affiliated

17 with other than TDS?

18 A Not that I'm aware of. Perhaps he's had

19 reimbursements of cash tickets or expenses related to

20 different corporations that I don't follow, but that's

21 a probability, but I'm not aware of any payroll checks

22 from other entities.

23 Q Okay. He may have other investments that

24 you're not familiar with, but as far as the companies

25 you're president of, he doesn't receive compensation

Page 31

1 from those companies other than from TDS. Is that a

2 correct statement?

3 A Not in the form of payroll. He may receive

4 compensation in the form of reimbursement for

5 restaurant tickets or things like that. I'm actually

6 not aware --

7 Q That's just reimbursement of expenses,

8 though?

9 A Yes.

10 Q What was the net profit from Garra de Aguila

11 in 2005?

12 A I don't recall.

13 Q Was there any profit?

14 A I signed the tax returns, but I have no

15 recollection of what it would have been -- a profit or

16 a loss.

17 Q Garra de Aguila is the holding company.

18 Correct?

19 A That is a real estate development company

20 that serves -- I mentioned it only from the basis that

21 I am here as the general partner of TJFA, and as that

22 general partner I serve as that general partner as

23 president of Garra de Aguila.

24 Q Okay. I thought I heard you describe it

25 earlier as a holding company. And what I was getting

Page 32

1 to was, does it hold anything other than TJFA?

2 A Not that I'm aware of.

3 Q And as president and only one other person,

4 Dennis Hobbs as vice president, we can assume that you

5 would be aware of anything that it was holding other

6 than TJFA?

7 A You can assume that. I have a lot of

8 businesses, but I don't think it has any other --

9 Q How many businesses do you have?

10 A I would have to think about it and count them

11 up, but they are different investment companies that I

12 own.

13 Q TJFA, then -- any employees for TJFA?

14 A No.

15 Q Is it fair to say that you control all the

16 activity with respect to TJFA as president of Garra de

17 Aguila and then as the limited partner?

18 A I think you could say that, yes.

19 Q What holdings does TJFA have?

20 A I believe TJFA owns 10 different pieces of

21 property.

22 Q All right. Picking anyone that you like, why

23 don't we start listing them and then we'll try to

24 identify all 10.

25 A Okay. Well, let's start with Williamson

Page 33

1 County. I own two -- I say "I own" -- TJFA owns two

2 pieces of property in Williamson County within a mile

3 of the Williamson County landfill.

4 I marked those on the map in this

5 hearing. I think you're familiar with those pieces of

6 property.

7 Q Okay.

8 A It owns --

9 Q Are we going to a different county?

10 A I'm going to Travis County.

11 Q Travis County?

12 A I'm headed south. It owns two pieces of

13 property in Travis County in the vicinity of the old

14 closed Travis County -- the Allied Waste and the Waste

15 Management Austin Community Landfill.

16 Q You say "in the vicinity." Would they also

17 be within a one-mile radius of the Waste Management

18 and Allied landfills in Travis County?

19 A I believe they would be within a one-mile

20 radius of those two. I'm not sure that one of them is

21 within a mile of the old closed county site.

22 Q I'm not so concerned --

23 A I've not measured it off, but I'm not sure

24 it's within a mile.

25 Q I'm not so concerned with the old county

1 landfill that's been closed. But within the two
2 active landfills or within one mile of the two active
3 landfills, does TJFA -- or the property you identified
4 in Travis County as owned by TJFA, is that within or
5 are those parcels within the one-mile radius of the
6 Waste Management and Allied landfills?

7 A Yes.

8 Q Any other property owned by TJFA in Travis
9 County?

10 A Heading further south on Bureson Road there
11 is a small tract that is owned by TJFA in the vicinity
12 of the ISI landfill. It's also known as "Travis
13 County Landfill."

14 It's not owned by the county, but that's
15 just the name of it -- "Travis County Landfill." I
16 don't believe it's within a mile --

17 Q That's a --

18 A -- of the city of Austin landfill, which is
19 also in that area.

20 Q That's a Type IV landfill, the ISI landfill?
21 Is that --

22 A Both the city of Austin and the ISI landfills
23 are Type IV landfills.

24 Q And that small tract -- how big is a small
25 tract to you?

1 A An acre-and-a-half or something. I'm sorry.
2 I don't recall exactly, but it's a small tract.

3 Q And that would also be within one mile, then,
4 of either of these --

5 A At least the ISI landfill.

6 Q Please continue. In Travis County, anything
7 else?

8 A Yes. TJFA owns two tracts adjacent to the
9 TDSL landfill on Carl Road.

10 Q And anything else in Travis County?

11 A No. Going further south to Comal County,
12 TJFA owns two tracts in the vicinity of the Comal
13 County landfill, which is a Waste Management-owned
14 facility, as you know.

15 Q Now, you were a little less specific here,
16 but I'll probe a little further. You say two tracts
17 within the vicinity of that landfill, would you say
18 that that was within a one-mile radius of the Waste
19 Management --

20 A One tract is certainly within a mile and I
21 believe the other one is. If not, it's just outside.
22 It's approximately one mile.

23 Q Anything else in Comal County?

24 A No. Going further south there is one tract
25 that TJFA owns in the vicinity of the Covell Gardens.

1 COURT REPORTER: Covell? I'm sorry?

2 WITNESS GREGORY: C-o-v -- is it a-l?

3 MR. RILEY: It's e-l.

4 WITNESS GREGORY: C-o-v-e-l --

5 COURT REPORTER: Thank you.

6 A -- Gardens Landfill on Covell Road.

7 Q (By Mr. Riley) And would you say that was
8 within one mile? If you said that already, I
9 apologize.

10 A It is. And I believe that's all 10 tracts.

11 Does that total 10?

12 Q Let me count them up -- 1 -- or 2, 4, 5, 7, 9
13 and 10.

14 A Okay. I thought that was all of them.

15 Q So then it's fair to say, then, all of TJFA's
16 real estate holdings are within one mile of some
17 landfill. Is that correct?

18 A That is correct.

19 Q And was that by design?

20 A Yes.

21 Q And what is the design for TJFA? Why does it
22 purchase property within a one-mile distance of
23 landfills?

24 A Well, when I moved -- I know what I know
25 about landfills and about the regulations.

1 Part of my investment interest includes
2 buying land close to landfills with the belief that
3 the improvement in regulations, those landfills will
4 be operated better and the property values will
5 increase and our ability to lease those properties and
6 gain income from those properties both as appreciation
7 and also as rental income from those properties going
8 up will be a good investment.

9 Q What is your current rental income from all
10 the TJFA properties?

11 A I don't have the documents in front of me,
12 but different rates -- if you want me to start again
13 at the top, I believe it's 575 and 750 -- \$750 and
14 \$575 in Williamson County for those two. I do
15 remember those.

16 Q Let's go Williamson County, then.

17 A Okay.

18 Q You mentioned two pieces of property. I
19 believe one of them is approximately -- well, it's a
20 residence-type property, a small piece of property.
21 Is that correct?

22 A Both in Williamson County are residential
23 properties with houses on them and they are both
24 leased for people who live in it.

25 Q Does one have more property than the other?

1 A One is five or six acres -- maybe a little
 2 bigger -- and then the other one is something like an
 3 acre-and-a-half or two.
 4 Q Let's start with the smaller tract first.
 5 A The smaller tract I recall is -- I think I
 6 recall exactly -- is 550 or -- I'm sorry -- 750 or
 7 \$775 per month.
 8 Q How much did you pay for that property?
 9 A Approximately \$70,000.
 10 Q Was it rented prior to your purchasing it?
 11 A It had been rented prior to -- well, you
 12 know, maybe it was owned. Maybe it was the owner that
 13 lived in it. It was occupied before I purchased it --
 14 being TJFA purchased it.
 15 But when it was purchased, as I recall,
 16 it was empty but was rented shortly afterwards.
 17 Q And the five to six-acre property, is that
 18 rented?
 19 A I believe that the person that owned that
 20 died. It went on the market. TJFA purchased it. It
 21 has been rented -- sometime after that time it was
 22 remodeled immediately, and it's been rented since then
 23 as I recall.
 24 Q And the rental value --
 25 A I believe it's \$550 per month. It's a larger

1 tract of land, but it's a smaller house.
 2 Q How much did you pay for the property
 3 originally?
 4 A Approximately \$70,000.
 5 Q Approximately the same amount as --
 6 A Both of those were approximately \$70,000.
 7 Q Do you know of the name of the tenant in the
 8 smaller tract or -- I'm sorry -- the one-and-a-half to
 9 two-acre tract that rents for 750 to \$775, do you have
 10 a current tenant there?
 11 A There are tenants in both of them. I am
 12 terrible with names. I'm sorry. I don't recall
 13 either name of either tenant. They are both Spanish
 14 surnames, but I don't recall the name.
 15 Q But they are both occupied and rented?
 16 A Yes.
 17 Q Have they been rented since the time that you
 18 purchased them?
 19 A The larger tract with the smaller house which
 20 was remodeled and rented after the remodeling has been
 21 rented for -- I'm not sure -- a year, maybe.
 22 The smaller tract with the larger house
 23 has been rented for some time, and I don't recall
 24 exactly the time frame of that lease.
 25 Q Are you making an adequate return on your

1 investment?
 2 A I think so, yeah.
 3 Q Have either of these properties gone
 4 unoccupied for any period of time while you have been
 5 the owner other than what you've already described in
 6 the remodeling of the --
 7 A Not other than as I've described. I believe
 8 it's the -- no. Actually, there was someone that
 9 rented one of them and then bought a house and moved
 10 into a house that they purchased and then someone --
 11 I think there's been three tenants between the two
 12 houses since we purchased them as TJFA.
 13 Q So if I understood your testimony a moment
 14 ago correctly, you believe that investment in real
 15 estate close to landfills is a wise investment?
 16 A Yes.
 17 Q During the preliminary hearing on this
 18 matter, do you remember me asking you some questions
 19 when you were testifying?
 20 A Yes, I do.
 21 Q And do you remember being asked the question
 22 of whether you purchased this property for the purpose
 23 of becoming an affected person in the contested case
 24 matter should any of -- excuse me. Let me stop there.
 25 Do you remember being asked the question

1 of whether you purchase the property for the purpose
 2 of becoming an affected person?
 3 A I remember you asking a question along that
 4 line. I don't remember exactly how the question and
 5 answer went.
 6 Q Okay. Well, let me ask it again, then: Did
 7 you purchase this property or did TJFA purchase this
 8 property with the intention of qualifying as affected
 9 person in the event that the Williamson County
 10 landfill filed for an expansion?
 11 A As I explained earlier, TJFA buys property in
 12 the vicinity of landfills with the belief that as
 13 those landfills are operated properly and as rules
 14 improve, the value of that land and an ability to
 15 lease and draw income for that land will improve.
 16 I bought the properties under that
 17 assumption. Knowing what I know about landfills and
 18 about the ability to permit and seek permit
 19 amendments, it provides TJFA the assurance that if
 20 permit applications are submitted that do not meet the
 21 rules or are done in a manner that circumvent the
 22 rules, then it allows -- that allows me as a partner
 23 and TJFA to seek clarification or challenge.
 24 So I did know that you could take party
 25 status if necessary. It was not purchased for the

Page 42

1 expressed purpose to take party status. So I hope
2 that answers your question.

3 Q Not so much, but let's try it again. Did you
4 purchase the property within a one-mile radius of the
5 Williamson County landfill for the purpose of
6 qualifying as an affected person under the TCEQ rules?

7 A The answer would be "no" for the expressed
8 purpose. However, I knew that I would be able to if
9 the need arose.

10 I believe that's how I answered the
11 question in the public -- the first day of public
12 hearing.

13 Q When you purchased this property, was the
14 application for expansion of the Williamson County
15 landfill pending? By "this property," I'm referring
16 to the Williamson County properties, either one of
17 them.

18 A It would have been because the application
19 was made, I believe, in 2003 which was three years
20 ago, and I believe these properties have been
21 purchased since then.

22 Q So the application had been filed. Correct?

23 A As I recall.

24 Q And you were aware of it. Correct?

25 A As I recall.

Page 43

1 Q In fact, you participated in a variety of
2 different --

3 A I have since then, yeah.

4 Q And prior to owning the property or -- excuse
5 me. Prior to TJFA owning the property, have you, Bob
6 Gregory, been active in Williamson County regarding
7 the permit application as the subject of this
8 proceeding?

9 A I have to put on a different hat. When I say
10 I participated, I have participated representing Texas
11 Disposal Systems Landfill, Inc. or TDSL, as we agreed
12 to call it, and to a limited extent -- to the extent
13 that hauling is involved, representing TDS, and I have
14 been involved in that and actively involved.

15 And as you and the county are aware,
16 because much of what I've done has been in writing, it
17 is made available to the county. But, again, that's
18 me representing TDS and TDSL.

19 I have not participated representing
20 TJFA in any of that as representing TJFA.

21 Q And you distinguish that how?

22 A I distinguish it just from the basis of how I
23 represent myself when I do it and from the position
24 that I state in the writings and the documents that
25 I've produced.

Page 44

1 Q Let me say it back to you and you can tell me
2 where I've gotten it wrong. You did not own property
3 around the Williamson County landfill prior to TJFA
4 purchasing the two tracts that we've been
5 discussing -- you in any form or fashion?

6 A Actually, I think for a very short period of
7 time it was in my name.

8 Q Your personal name?

9 A My personal name. As I recall, one of the
10 tracts was. That's when TJFA was in the process of
11 being formed.

12 I'm not exactly sure on that, but I
13 think I have a recollection of one of the properties
14 bought in my personal name that was transferred over
15 into TJFA.

16 Q Let's go back. Let's walk forward
17 chronologically. From the point of time where you
18 became aware that Williamson County had filed for an
19 expansion of the Williamson County landfill, do you
20 recall approximately what date that might have been?

21 A I do not recall.

22 Q Do you recall what year that might have been?

23 A It probably was 2004.

24 Q And is it your testimony that you were aware
25 of the application in whatever capacity you were

Page 45

1 acting prior to purchasing any property within a
2 one-mile radius of the Williamson County landfill?

3 A I think I was. If you could give me the date
4 that I purchased the property, I may be able to tell
5 it better. I'm not trying to be difficult at all.

6 I'm just trying to answer your question accurately.

7 I very well may have been aware that the
8 application had been filed, but I'm not positive.

9 Q Let me throw out some dates and see if they
10 refresh your recollection. The first public notice
11 for the land use only, Parts 1 and 2 of the Williamson
12 County application, was published on December 16,
13 2003. Does that sound about right to you?

14 A I have no recollection of a date. I remember
15 hearing about it. I don't know if it was in December
16 or a month later or two months later.

17 Q In July -- specifically July 22, 2004 -- you,
18 Bob Gregory, purchased 5.04 acres on County Road 130
19 in Williamson County.

20 Does that sound about right?

21 A I take your word for it. I don't have a
22 reason to doubt it.

23 Q I think these are --

24 A But I don't recall when that was, to be
25 honest with you.

1 Q But my purpose in going through the dates is
2 hopefully pretty clear. You didn't own property,
3 there was an application on file and you purchased
4 property within a one-mile radius.

5 MR. DUNBAR: Objection, form.

6 Q (By Mr. Riley) Do you agree with that
7 statement?

8 A I know I purchased property within a mile
9 radius, meaning TJFA. The exact time of whether I was
10 aware of whether a permit had been filed on the first
11 one, I can't say, but I don't know that that matters.

12 When TJFA bought the second tract,
13 there's no question I knew at that point that a permit
14 had been filed.

15 Q Well, let me --

16 A So if that's what you are trying to get to, I
17 know it was the case on the second tract. I'm not
18 positive it was on the first.

19 Q My purpose in asking these questions is
20 twofold. One is to drill down on what you've said is
21 TJFA's investment strategy. All right?

22 And to that end, what I'm asking you is,
23 when you purchased this property you were aware that
24 the application for expansion had been requested or --
25 excuse me -- had been filed and, therefore, it was

1 part of your investment strategy or acknowledged in
2 your investment strategy that the landfill could be
3 expanded. Is that correct?

4 A It certainly was that understanding on the
5 second tract --

6 Q Okay.

7 A -- that I knew that there was a permit being
8 filed -- had been filed and that the landfill might be
9 expanded.

10 Q Okay. I have two dates here. The first date
11 that I have that you as an individual purchased
12 property is July 22, 2004, and that's the five-acre
13 tract or approximately five-acre tract.

14 Does that date sound about right to you?

15 A I told you I don't recall, but I have no
16 reason to doubt you.

17 Q Okay. I also have a date of December 29,
18 2004 where you also -- excuse me -- not you, but TJFA
19 purchased property from a Ronica Renee Ledesma. Does
20 that sound correct?

21 A That's the second tract. I do remember the
22 Ledesma name.

23 Q So the first in time tract would have been
24 the July tract -- the five-acre tract in July of
25 2004 --

1 A Yes.

2 Q -- which would have been --

3 A The five acre one was the first tract. The
4 date, I'm taking your word on.

5 Q And it would have been approximately seven
6 months after the first public notice of the -- excuse
7 me -- of the Williamson County application to expand
8 the landfill.

9 So each of these pieces of property were
10 purchased after there was public notice of the intent
11 to expand the landfill?

12 A I'm taking your word on those dates and your
13 word being -- if your word is accurate, then that's
14 correct, obviously.

15 Q Okay. So when you purchased this property,
16 either you as an individual or you as the president of
17 Garra de Aguila, the general partner for TJFA, you
18 purchased it with the expressed purpose of being
19 within a one-mile radius and seeking affected person
20 status in that application. Is that true?

21 A The first part is true. The last part is not
22 true. It wasn't with the expressed purpose of seeking
23 party status.

24 There is an investment philosophy and
25 strategy that I've tried to explain to you that is a

1 fact. That's an issue, and that's relative to all of
2 our facilities.

3 I don't automatically buy the property
4 to take party status, and I've demonstrated that with
5 at least one of the tracts that I purchased.

6 Q And which tract is that that you're referring
7 to?

8 A That's the tract next to the Covell Gardens
9 landfill in Bexar County in San Antonio.

10 Q Do you intend to seek affected person or --
11 excuse me -- party status in the pending applications
12 of Waste Management for expansion of the Comal County
13 landfill which you referred to as Comal County and the
14 Austin Community landfill?

15 A I don't know. That is a possibility.

16 Q Well, have you not already sought party
17 status in the Comal County landfill expansion?

18 A The opportunity has not made itself
19 available. There's not even been a public meeting on
20 it, let alone the start of a public hearing where one
21 would take party status.

22 Q Are you not aware that you requested a
23 contested case hearing in the Comal County landfill
24 expansion referred to as "Mesquite Creek"?

25 A As I understand it, my attorneys identified

1 issues that we felt -- TJFA felt needed to be dealt
2 with and corrected and made those known in the process
3 of seeking improvement to that.

4 That was about the time as I recall that
5 a public -- that the draft permit was issued and a
6 public meeting notice was issued -- very similar to
7 the position taken by my attorneys on the Williamson
8 County landfill where issues were identified that TJFA
9 was seeking corrections in the permit application.

10 Q So you're not seeking denial of the permit in
11 either case; you're seeking merely technical
12 corrections. Is that correct?

13 A I'm seeking denial of a permit in the event
14 that it is -- that it doesn't meet the requirements
15 under the regulations under the law.

16 Q Well, if I understood your testimony, your
17 testimony is that you benefit as TJFA by the adherence
18 to the state regulation regarding the operation of
19 landfills. Is that correct?

20 A That is correct.

21 Q So your economic interest is improved when a
22 landfill meets the requirements of the state. Is that
23 correct?

24 A That's correct.

25 Q So your economic interest is simply to see

1 that the rules and requirements of the state are met
2 by a landfill in the area where you own property?

3 MR. DUNBAR: Objection, form.

4 A That is correct. However, if a landfill
5 applicant and/or the Executive Director choose not to
6 follow the rules and meet the requirements of those
7 regulations as a property owner within a mile of the
8 facility that chooses to take party status and
9 participate in a hearing, one can go to the point of
10 seeking denial of the permit amendment or the permit
11 approval.

12 That's the position of safety that TJFA
13 has from an investor standpoint, that it can influence
14 that process, that the facility operate properly, that
15 the agency permit properly in hopes that it will rise
16 to the occasion and do so.

17 If it doesn't do it, then it's the
18 prerogative of TJFA and any other party with
19 justiciable interest to seek a denial of the permit.

20 Q (By Mr. Riley) That's a lot of words,
21 Mr. Gregory. I didn't ask you the question.

22 A I think I was responsive to your question.

23 Q Let me try to get to the question, then, and
24 maybe you can give me a more succinct answer.

25 A Please do.

1 Q If a landfill was operated in accordance with
2 the requirements of the state -- all the rules, laws,
3 permits -- it enhances your investment according to
4 what you've said the purpose of TJFA is?

5 A That's correct.

6 Q Does denial of a permit enhance your
7 investment?

8 A It can.

9 MR. DUNBAR: Objection, form.

10 A As you know, a denial of an amendment to a
11 permit just takes you back to where the permit stood
12 prior to the amendment being requested. So it doesn't
13 close the landfill, necessarily. It just takes the
14 opportunity to do an amendment.

15 There is no question that it's better --
16 there is no question it's better to have a denial of
17 that permit amendment than it is for the permit
18 amendment to be granted in a fashion that is
19 inconsistent with the rules or illegal.

20 Q (By Mr. Riley) Regarding the Williamson
21 County application, what specifically do you think is
22 illegal about the application and/or the draft permit?

23 MR. DUNBAR: Objection, form.

24 A I will answer your question as specific as I
25 can, although I will also refer you to the two sets of

1 comments that TJFA attorneys have submitted -- one in
2 May of this year and one in July of this year -- that
3 we've tried to articulate what our concerns are.

4 But, initially, going from the top as
5 best I can recall, the way the application was filed
6 in the name of Waste Management as well as Williamson
7 County we think is inappropriate.

8 Q (By Mr. Riley) How does that improve the
9 value of your property one way or the other?

10 A We believe that if Waste Management, given
11 the way they operate facilities, becomes the
12 controller of this landfill and the one who under its
13 contract and permit takes over the control of this
14 from Williamson County that it will reduce the
15 probability of the values going up surrounding this
16 site and our ability to lease land, because we know
17 how Waste Management has operated in this area.

18 Q So you don't have any problem with the
19 technical aspects of the application. You have a
20 problem with the operator of the landfill. Is that
21 correct?

22 A I do have problems with the technical aspect
23 of the application. And, again, that's why I referred
24 you to the comments that were submitted. Those
25 particular issues primarily were dealt with in May

1 with the documents that were presented to the agency
 2 when we were seeking a public meeting --
 3 Q Mr. Gregory, the --
 4 A -- in this process. So I can try to go
 5 through them as best I can, but I've articulated --
 6 tried to articulate those to the point that the county
 7 would get the picture and revise the permit
 8 application accordingly.
 9 Q If the permit application were revised in
 10 accordance with those observations or comments, would
 11 you agree that the permit should be issued?
 12 A I could. In the case of the Covell Gardens
 13 landfill, TJFA owned property adjacent to this Bexar
 14 County --
 15 Q I appreciate the hypothetical, but I'm asking
 16 you a direct question.
 17 A It's not a hypothetical. It --
 18 Q And we're not going to argue. I'm going to
 19 ask you questions and you're going to answer them and
 20 we're not going to have a conversation.
 21 My question is: As pertains to the
 22 Williamson County permit application, if the comments
 23 that were advanced by TJFA or some other entity acting
 24 on your individual and corporate behalf were
 25 addressed, would you agree that the permit should be

1 issued?
 2 MR. DUNBAR: Objection, form.
 3 A I will state that those were issues that we
 4 identified that need to be addressed.
 5 I'm not going to go to the point of
 6 saying that I think that would address all the
 7 concerns, because issues can be raised in the process
 8 of addressing those concerns.
 9 But to my knowledge, that was a very
 10 thorough representation of our concerns at that time,
 11 and I still believe they should be addressed.
 12 Q (By Mr. Riley) Would you like to have the
 13 Williamson County contract?
 14 MR. DUNBAR: Objection, form.
 15 A TJFA is not in the business of running
 16 landfills and has no interest at all in having --
 17 Q (By Mr. Riley) Could we drop the pretense?
 18 Would TDSL like to have the Williamson County
 19 contract?
 20 A First of all, I'm here to answer your
 21 questions on behalf of TJFA. To the extent that the
 22 position of TDS and TDSL issues and concern in this
 23 issue, I've given most of those in writing to the
 24 public and to the county itself.
 25 Q Are you actively on behalf of TDSL or any

1 other entity you own trying to rest the contract away
 2 from Waste Management for your benefit?
 3 MR. DUNBAR: Objection, form.
 4 A I will not characterize it as you
 5 characterize it. TDSL, primarily, has expressed
 6 serious concerns with the contract that exists between
 7 the county and Waste Management.
 8 TDSL has expressed very serious concerns
 9 with the manner in which Waste Management has chosen
 10 to seek this permit application. TDSL is very
 11 concerned in the manner that Waste Management has
 12 attempted to intimidate the county into going along
 13 with its plan.
 14 And from that end, TDSL has expressed
 15 very serious concern with the county moving forward,
 16 and TDSL has used its right to petition government,
 17 freedom of speech, to address our concerns to the
 18 county as they are in the process of renegotiating the
 19 contract with Waste Management.
 20 But those are representations that I
 21 personally have made representing TDSL and to a lesser
 22 extent TDS. At no time was it TJFA's representation
 23 to do anything with the contract.
 24 Q (By Mr. Riley) Let's face it Mr. Gregory,
 25 you talk about investors to TJFA, but it's just you.

1 Is there some other investor to TJFA
 2 that you haven't been able to explain on the record
 3 here this afternoon? You keep talking about investors
 4 to TJFA and Garra de Aguila, but it's just you. Isn't
 5 that correct?
 6 A I don't keep talking about investors to --
 7 Q You've mentioned it several times. At least
 8 I've heard it. Answer my question directly: Is there
 9 anyone else who has a financial interest in TJFA or
 10 Garra de Aguila other than Bobby Gregory?
 11 A I've already answered that question, and I am
 12 the owner of Garra de Aguila and TJFA --
 13 Q Is the answer to my question, "no," you're
 14 the only person -- you're the only individual who
 15 benefits from those two entities?
 16 A The corporation is a person as you know, but
 17 I am the only individual.
 18 Q Right. So if TJFA makes a profit, it goes
 19 into your pocket. Correct?
 20 A It goes to the profit of -- in the taxable
 21 account of these companies.
 22 Q Right. That goes into your pocket. Is that
 23 correct?
 24 A As an individual, I'm the only owner of it,
 25 if that's your point.

1 Q So you are the only person who benefits
2 financially from the outcome or the investment
3 strategy of the two entities we've been discussing
4 this afternoon -- TJFA and Garra de Aguila. Is that
5 correct?

6 A In the end. There are separate --

7 Q In the beginning, in the end, in the middle,
8 is there anybody else who benefits?

9 A They are separate entities. They are
10 separate taxable entities. They are separate legal
11 entities, and under the law they can practice as they
12 do.

13 I have made no attempt at any point in
14 time to shield the fact that I own -- as Bobby Gregory
15 owns the companies, and I wouldn't have been at the
16 public hearing the other day presenting myself
17 personally doing it if I had any intent to try to
18 shield that.

19 I would have had an attorney there or
20 someone for it. So we've made no attempt to this
21 and --

22 Q Then I don't know why you're not being
23 forthright in answering my questions.

24 A I'm being more than forthright in answering
25 your questions, Mr. Riley.

1 Q Is your intent here -- and by "here" as
2 TJFA, is part of TJFA's objective to limit the
3 municipal solid waste disposal capacity in this area
4 of Central Texas?

5 A No.

6 Q It is not?

7 A No.

8 Q Okay. So the fact that you oppose expansions
9 of other landfills other than your own, that's not
10 indicative of your true intent. Is that your
11 statement?

12 MR. DUNBAR: Objection, form.

13 A That is not indicative of -- that has nothing
14 to do with the investment philosophy and opportunity
15 of TJFA.

16 If anyone could take this same
17 investment philosophy that TJFA has, and I believe as
18 long as they were smart enough and knew how the --
19 what opportunities -- legal opportunities -- lay
20 before them to make sure -- to do their best to make
21 sure that the rules are followed that values of real
22 estate will go up over time as entities follow the
23 rules and follow the law and as the requirements are
24 placed on landfills to operate better.

25 Q (By Mr. Riley) How does TDSL benefit if

1 these expansions or -- excuse me -- the Williamson
2 County expansion is not granted?

3 A How does TDSL --

4 Q Yes.

5 A You're asking me a question as a spokesman
6 for TDSL at this point?

7 Q I asked you a question as an individual under
8 oath. It's as simple as that.

9 A Well, again, I'm here representing TJFA.

10 Q Are you refusing to answer the question?

11 A I will go into some extent answering
12 questions, but --

13 Q So you're refusing to answer?

14 A -- you're not going to ask -- ask your
15 question again.

16 Q Sure. Does TDSL benefit by defeating the
17 application for expansion of Williamson County, Austin
18 Community Landfill, Allied's -- I think it's called
19 Sunset Farms -- and Covell Gardens? Does it benefit if
20 those applications are denied?

21 A It benefits by those applications following
22 the law and operating to a standard that are called if
23 they follow the law.

24 Q How does it benefit by those other entities
25 under your -- in your opinion following the law?

1 A Because it changes the way they operate now.
2 They have to operate by a higher standard than they
3 are operating --

4 Q So TDSL is a public-minded company?

5 A I am a publicly-minded individual and my
6 company is a publicly-minded company, and you more
7 than anyone else in this room know that I have a long
8 history of working to try to raise the bar for the
9 operation of facilities throughout the state.

10 Q We might have a disagreement as to what
11 you're working toward, but I do agree that you're very
12 active in seeking to benefit your company through the
13 regulatory process.

14 So we at least have that much in common
15 and a common agreement.

16 A To the extent that encouraging landfill
17 operators throughout the state to meet the regulations
18 means helping my company, then, yes, that would be
19 correct.

20 To the extent that I am seeking to ask
21 them to do anything other than meet the regulations
22 and follow the regulations, then I would disagree with
23 you.

24 Q Who's a good operator in this state other
25 than yourself?

1 MR. DUNBAR: Objection, form.
 2 A There are some Type IV landfill operators in
 3 the state that are good operators.
 4 Q (By Mr. Riley) Is that it, Bobby Gregory and
 5 the Type IV landfill operators?
 6 A And as I understand it -- I have spent very
 7 little time there, but as I understand it, the Waste
 8 Management Covel Gardens landfill is operated well.
 9 That's my understanding and one reason
 10 that I didn't oppose STJFA, the permitting of that
 11 facility.
 12 Q Without getting too far afield here, you have
 13 an opinion about other landfills. You've just
 14 expressed an opinion about the Covel Gardens landfill,
 15 but you admit that you don't know much about it. Is
 16 that correct?
 17 A I know about the permit. I know about their
 18 operating history. I'm not there enough to know about
 19 the day-to-day impact, and that's what I'm referring
 20 to, what I don't know as much about.
 21 Q Okay. Would you then extend that to the
 22 Comal County landfill where I think it's somewhere in
 23 the nature of 500 letters of support for that facility
 24 have been submitted to the TCEQ and only one letter in
 25 opposition to granting that expansion that has been

1 submitted and that's on behalf of you or TJFA?
 2 How do you explain that, Mr. Gregory?
 3 Everybody is wrong but you?
 4 A First of all, I can't imagine what this has
 5 to do with Williamson County and permitting an
 6 expansion of their landfill in Williamson County, but
 7 I have reviewed that application and I reviewed the
 8 application before it and it's a very poor landfill,
 9 and the TCEQ permitted an expansion of that landfill
 10 over a major geological fault which should have never
 11 been, in my opinion, permitted.
 12 It has some serious problems with the
 13 permit as proposed.
 14 Q All right.
 15 A So I don't know where you -- I have not seen
 16 one of the 500 letters that you're talking about that
 17 are in support of it.
 18 Q That's not surprising to me that you haven't
 19 seen those, but I can't imagine you've actually looked
 20 for them either. Is that correct?
 21 A Actually, individuals have looked at the
 22 file. I have not been to the TCEQ to look at the file
 23 and I never remember anyone representing to me that
 24 there are 500 letters in the file of support.
 25 Maybe it's letters at a different level.

1 Q Possibly.
 2 A I'll be glad for you to make those available
 3 to me.
 4 Q They are available from the TCEQ. You spend
 5 a lot of time out there. I'm sure you can find them.
 6 A I'll go looking.
 7 Q Good. Have you entertained any of the
 8 current county commissioners or county judge of
 9 Williamson County either at a lunch or a dinner?
 10 MR. DUNBAR: Objection, form.
 11 A Yes, I have.
 12 Q (By Mr. Riley) And have you lobbied any of
 13 those people for termination of the Waste Management
 14 contract in favor of TDSL?
 15 MR. DUNBAR: Objection, form.
 16 A I have had lunch and/or dinner with each of
 17 the county commissioners and the judge representing
 18 TDSL -- not representing TJFA in any respect.
 19 I've told at least Commissioner Limmer
 20 and Judge Doerfler and Mark Dietz approximately two
 21 years ago that I was involved with a company -- an
 22 investment company -- that owned land next to the
 23 Williamson County landfill, but that's the only extent
 24 of any mention that I ever had as far as a
 25 representation of TJFA.

1 All other discussions that I've had are
 2 me on behalf of TDSL.
 3 Q (By Mr. Riley) My question is: Have you,
 4 Bob Gregory, lobbied any public official at any
 5 level -- the state, federal, local -- for relief of
 6 the contract or -- to take the contract for the
 7 Williamson County landfill and award it to TDSL?
 8 A I have asked them to seriously review the
 9 contract to -- I've never asked them to break the
 10 contract.
 11 I've never encouraged them to do
 12 anything like break the contract, but to evaluate it
 13 from the basis that Waste Management itself had
 14 already breached the contract and to evaluate whether
 15 it was appropriate for them to terminate the contract
 16 based on that.
 17 So I'm trying to be very specific.
 18 Q So you have lobbied on behalf of TDSL for
 19 review of that contract and consideration of TDSL for
 20 the contract. Is that correct?
 21 A That's correct.
 22 Q All right. Are you a registered lobbyist?
 23 A There is no need for a -- there is no place
 24 to register as a lobbyist in Williamson County.
 25 Q That's your understanding of the lobby

1 requirements?
 2 A That's correct.
 3 Q Okay. Have you spent any amount of money, no
 4 matter how insignificant, in entertaining any public
 5 official for the purpose of lobbying for the
 6 Williamson County contract?
 7 MR. DUNBAR: Objection, form.
 8 A Not that would require me to register as a
 9 lobbyist.
 10 Q (By Mr. Riley) That's not my question. Have
 11 you spent any amount of money?
 12 A If I bought a meal, I spent an amount of
 13 money.
 14 Q And during that meal, did you lobby for
 15 action on behalf of public officials?
 16 MR. DUNBAR: Objection, form.
 17 A I've encouraged them to review the contract
 18 and evaluate what TDSL had to offer.
 19 Q (By Mr. Riley) So the answer would be "yes,"
 20 you asked them to take action and provided at least a
 21 meal during these interactions with public officials.
 22 Is that correct?
 23 A That's correct. I know of no reason for
 24 registration as a lobbyist --
 25 Q Do you lobby?

1 MR. DUNBAR: Objection, form.
 2 A I serve as -- when I speak on this behalf, I
 3 speak as the president of the corporation, and there
 4 is no reason for me to file as a lobbyist to talk to
 5 people in Williamson County -- at the county or
 6 Georgetown at the city level.
 7 Q (By Mr. Riley) So you went to see them as a
 8 representative of TJFA and a property owner expressing
 9 your -- what did you refer to it earlier -- your First
 10 Amendment rights and then lobbying on behalf of --
 11 A I went to see them representing TDSL.
 12 Q How do keep those straight?
 13 A Well, I just do. It's how I present myself,
 14 and Mark Dietz can tell you because he was in one of
 15 the meetings.
 16 Q Let's go back to the Williamson County
 17 landfill. During the preliminary hearing you were
 18 asked this question and apparently unprepared for it
 19 at the time. You answered -- "Honestly" --
 20 MR. DUNBAR: Objection, form.
 21 Q (By Mr. Riley) -- "the reason that TJFA
 22 purchased property within one mile of the Williamson
 23 County Landfill is to qualify as an effected person.
 24 Is that correct?"
 25 "In the need that there was needed to be

1 that step taken, that is correct." Do you give that
 2 same answer?
 3 A That is a correct answer.
 4 Q Okay. So then you did purchase the property
 5 within one mile of the Williamson County landfill to
 6 qualify as an affected person. Is that correct?
 7 A In the need that was necessary. As I've
 8 stated, if it is necessary to protect the investment
 9 interests of this company, if there are steps being
 10 taken that are directly contrary to the investment
 11 interests of TJFA, particularly if illegal steps are
 12 being taken or steps taken that are inconsistent with
 13 the regulations, that is part of my knowledge and part
 14 of my understanding of the rules and part of my
 15 ability to challenge those steps.
 16 TJFA has done it in a fashion of
 17 articulating those concerns up front, well ahead of
 18 the time of a public hearing and an opportunity to
 19 take party status, such that the entity can take those
 20 items and those issues if they want to and incorporate
 21 the corrections into the permit.
 22 And it just so happened in this case for
 23 Williamson County they ignored every single one of
 24 them and moved ahead.
 25 Q So your position is that TJFA is simply

1 interested in compliance with the regulations. Is
 2 that correct?
 3 A TJFA is a real estate investment company
 4 that's interested in buying property in proximity to
 5 landfills with the knowledge that as facilities are
 6 operated better land values will go up.
 7 And it also knows that, if necessary, it
 8 can take a party status if those permit applications
 9 are being pursued in a manner inconsistent with the
 10 rules and the law, and we've done it on occasion and
 11 on other occasions we have not done it as was
 12 necessary.
 13 Q Are you an employee of any of your companies?
 14 A Yes.
 15 Q Which one?
 16 A I am an employee of Texas Disposal Systems.
 17 I'm an employee of Txalloy, and I believe that's the
 18 only businesses that I'm an employee of.
 19 Q How much are you paid annually by TDS?
 20 A I don't recall.
 21 Q You don't know your annual salary from your
 22 own company?
 23 A No.
 24 Q How much are you paid by Txalloy?
 25 A I don't recall.

1 Q What's your annual income?

2 MR. DUNBAR: I'm going to object and
3 instruct my client not to answer as being beyond the
4 scope of discovery in this proceeding.

5 MR. RILEY: Well, the scope of discovery
6 is economic interest. I'm trying to establish how
7 much economic interest Mr. Gregory has or derives from
8 the --

9 MR. DUNBAR: From TJFA is fine.

10 MR. RILEY: -- from TJFA. I can't put
11 it in proportion unless he answers the question.

12 A TJFA has no income. So whatever it is, it's
13 still zero.

14 Q (By Mr. Riley) How much do you make
15 annually, Mr. Gregory?

16 A You will have to certify that question to the
17 Hearings Examiner. I won't answer that question.
18 First of all, I don't know because I have a lot of
19 income coming in from other various and sundry things.

20 You've asked me two companies that Waste
21 Management competes directly with, and I will not
22 answer that question since you've identified yourself
23 as representing Waste Management. It has absolutely
24 no --

25 Q Unfortunately, you don't get to make

1 objections, Mr. Gregory.

2 A It has absolutely nothing to do with
3 Williamson County.

4 Q You know, I've rarely been in a deposition
5 where the witness makes his own objections.

6 MR. DUNBAR: And I have already objected
7 and instruct my client not to answer.

8 A And I was acting under that objection.

9 Q (By Mr. Riley) Do you personally benefit --
10 you, Bob Gregory, personally benefit if the Williamson
11 County application is denied?

12 A TJFA will benefit --

13 Q Please answer the question I've asked you.
14 Don't reframe it. Answer it or don't answer it, but
15 answer the question I asked you.

16 MR. DUNBAR: Objection, form.

17 A I don't know.

18 Q (By Mr. Riley) You don't know?

19 A There are scenarios when it could be
20 beneficial. There are scenarios when it would not be
21 beneficial.

22 Q Does your landfill or TDSL's landfill benefit
23 from noncompetition in this market?

24 A It benefits from honest competition that
25 plays by the rules.

1 Q Again, if you can answer my question, answer
2 it.

3 A I told you. I said I don't know how to
4 answer it because depending on which --

5 Q If every other landfill in this area closes,
6 does your landfill benefit?

7 A You're asking me now from TDSL's perspective.
8 Is that correct?

9 Q Yes.

10 A A moment ago you asked me personally, and
11 I --

12 Q No, it's the same thing, isn't it,
13 Mr. Gregory? Even though you won't answer the
14 question about your income, I'm pretty sure we would
15 find out that TDSL pays the bulk of your unknown
16 annual income.

17 Isn't that correct?

18 MR. DUNBAR: Objection. I instruct my
19 client not to answer.

20 Q (By Mr. Riley) Does the vast majority of
21 your annual income, without telling me a number, come
22 from revenue generated by TDSL?

23 A A percentage of my total income comes from
24 TDSL.

25 Q What would you say that percentage is without

1 telling me the number?

2 A I don't know.

3 Q More than 50 percent?

4 MR. DUNBAR: Objection --

5 A I simply don't recall.

6 Q (By Mr. Riley) So some amount of your annual
7 income is derived from the revenue generated by TDSL.
8 Is that a fair statement?

9 A That's correct.

10 Q And if TDSL were the only landfill in the
11 Central Texas area, would you expect your revenue from
12 TDSL to increase?

13 MR. DUNBAR: Objection, form.

14 A The revenue would increase, yes.

15 Q (By Mr. Riley) Would you expect to
16 personally benefit from that revenue increase?

17 MR. DUNBAR: Objection, form.

18 A I would benefit as a stockholder in TDSL.

19 Q (By Mr. Riley) How about TDS, would you also
20 benefit as an employee of TDS?

21 A As an employee of TDS, I don't know. I'm a
22 stockholder. I'm a majority stockholder of TDS, and I
23 would benefit.

24 Q So if these other landfills go out of
25 existence or are denied their expansions, you

1 personally would derive a direct economic benefit. Is
2 that correct?

3 MR. DUNBAR: Objection, form.

4 A I could.

5 Q (By Mr. Riley) Do you have any question
6 about that?

7 MR. DUNBAR: Objection, form.

8 A It depends on who else opened up. I mean, I
9 guess you're assuming that no one else would permit a
10 landfill.

11 As you know, there is a wide world of
12 opportunities out there for landfill operators. So
13 this landfill could --

14 Q (By Mr. Riley) Mr. Gregory, what is the
15 expected --

16 MR. DUNBAR: Objection. I'm going to
17 ask that counsel not overspeak when my client is
18 trying to answer.

19 Let him finish answering the question
20 and then you can ask another question.

21 MR. RILEY: I'm going to cut him off if
22 he's not answering the question and giving a
23 statement.

24 MR. DUNBAR: Then object and say, "It's
25 nonresponsive" and then go on.

1 MR. RILEY: Don't give me instructions,
2 Mr. Dunbar.

3 Q (By Mr. Riley) Mr. Gregory, isn't this
4 effort of TJFA all about noncompetition?

5 A No.

6 Q But coincidentally you've bought property
7 around all the major landfills in the Central Texas
8 area and coincidentally you're opposing expansion of
9 those landfills. Is that correct?

10 MR. DUNBAR: Objection, form.

11 A That's not true.

12 Q (By Mr. Riley) It's a coincidence?

13 A Not only is it not of coincidence, it's not
14 true. I have not opposed all the expansions.

15 Q Okay.

16 A I've called upon those -- I hoped that those
17 landfills would operate by the rules. And in the case
18 where I thought one did -- the largest of all of
19 them -- which happened to be owned by Waste
20 Management, I did not take -- I did not seek party
21 status.

22 Q What is Waste Management doing so that you
23 would make the broad statement that it's not operating
24 by the rules?

25 A Again, we can go to my comments that we

1 submitted. There are multiple pages that articulate
2 where I feel that it is not --

3 Q Mr. Gregory, are you involved in
4 anticompetitive practice?

5 A No.

6 Q You're not?

7 A No.

8 Q I would like to hear specifically what
9 efforts you've made to encourage Williamson County to
10 breach the contract with Waste Management and award it
11 to TDSL?

12 A None.

13 Q You've not made any efforts? So anyone who
14 would testify to the contrary to your sworn testimony
15 would be lying. Is that correct?

16 A It is my testimony that I have made no effort
17 to encourage the county to breach the contract with
18 Waste Management -- "breach" meaning break the
19 contract.

20 Q Is there a contract between Williamson County
21 and Waste Management that you acknowledge exists?

22 A Yes.

23 Q What has Waste Management done in your mind
24 that has breached that contract?

25 A They have attempted to take over and take

1 from Williamson County control of the permit.

2 Q What else, if anything?

3 A They have attempted to take party -- under
4 that, by attempting to take party status and give
5 public notice and take over the control. That's just
6 an explanation of that statement.

7 Beyond that, I believe they have acted
8 improperly under that contract in a manner that they
9 sought the amendment of the contract in 2003.

10 Q Didn't you encourage amendment of the
11 contract?

12 MR. DUNBAR: Objection, form.

13 A I have encouraged amendment of the contract
14 since then. I was not aware of any amendment that was
15 going on in 2003.

16 Q (By Mr. Riley) What specifically was done in
17 2003 that you can testify to factually that was a
18 breach of the contract?

19 A Say again.

20 Q You said that in 2003 there was an amendment
21 to the contract. Is that your testimony?

22 A That is my understanding. Yes, there was, in
23 October of 2003.

24 Q And how is that a breach of a contract if the
25 parties agree to amend it?

1 A I think the manner that it was done does not
 2 show a good-faith negotiation on both sides, and I
 3 think it was approved in a manner that was
 4 inconsistent with a fair negotiation.
 5 Q What was not good faith about it?
 6 A Williamson County relied on an individual --
 7 Dwight Pittman -- who was a former Waste Management
 8 employee to handle the negotiations.
 9 Dwight Pittman's wife runs the
 10 gatehouse, is my understanding, for Williamson County
 11 at the Williamson County landfill. He draws income
 12 from his wife working for Waste Management.
 13 The county relied on him representing
 14 the county to negotiate a contract and pretty much, as
 15 I can tell, just rubber stamped what he okayed for the
 16 county.
 17 His past experience and his past
 18 relationship with Waste Management himself and his
 19 wife working for Waste Management on that landfill, I
 20 think, was improper.
 21 I think the county approved the
 22 contract, that they didn't have a clue what it
 23 included, and I believe that because numerous things
 24 that I and others have asked about it containing, no
 25 one on the county Commissioners' Court was even aware

1 of it.
 2 Q But you agree there is a contract. Correct?
 3 A I agree there is a contract.
 4 Q All right.
 5 MR. RILEY: I have about 20 more
 6 minutes.
 7 MR. DUNBAR: Okay.
 8 (Brief recess - 3:33 p.m. to 3:47 p.m.)
 9 Q (By Mr. Riley) Mr. Gregory, I want to go to
 10 heart of some of the matters we've discussed.
 11 Hopefully, I can get there quickly. And I'd ask you,
 12 again, if you could -- without feeling like I'm tying
 13 you down unnecessarily, if you could give as succinct
 14 an answer as possible, that would be appreciated by
 15 all, I'm sure.
 16 The initials "TJFA," do they stand for
 17 anything?
 18 MR. DUNBAR: Asked and answered.
 19 MR. RILEY: I don't believe so. No one
 20 else remembered it.
 21 A TJFA, LP is the name of the business, the
 22 limited partnership.
 23 Q (By Mr. Riley) I understand that, but do the
 24 letters themselves have any significance?
 25 A They represent a phrase that I coined. It

1 has nothing to do with the name. The name is TJFA,
 2 LP, but the phrase is Texas Justice For All.
 3 Q That's pretty dramatic. It doesn't seem to
 4 have anything to do with real estate investment -- the
 5 title at least. Is that correct?
 6 A Actually, it does.
 7 Q Mr. Gregory, I think it's pretty clear that
 8 you have a strategy here for buying property around
 9 landfills. Whatever the reasons are, you obviously
 10 have employed that strategy as it pertains to a number
 11 of Waste Management landfills and you've made at least
 12 some statements about your intention in doing so.
 13 The question I have for you as directly
 14 as I can ask it -- and I ask for as direct an answer
 15 as you can give me -- is, if you are successful in
 16 defeating the applications or you've already requested
 17 party status and/or a contested case hearing, will you
 18 personally financially benefit if those permits are
 19 denied?
 20 MR. DUNBAR: Objection, form.
 21 A You're speaking of me personally, the owner
 22 of all of these corporations. Is that correct?
 23 Q (By Mr. Riley) Correct.
 24 A I could --
 25 Q Well --

1 A -- under certain scenarios.
 2 Q Would it not --
 3 MR. DUNBAR: Just one second. Some
 4 parties have left. I just --
 5 MR. RILEY: Yeah, I didn't notice. Let
 6 me go check in the hall for Dr. Evans. Excuse me.
 7 (Off the record - 3:50 p.m. to
 8 3:52 p.m.)
 9 MR. DUNBAR: On the record, then. I
 10 just want to make a note that Mr. Evans has left the
 11 room. I don't have any problem continuing the
 12 deposition with him out of the room if no one else
 13 does.
 14 MR. RILEY: I have no problem with it.
 15 Certainly, it's his right to absent himself at any
 16 time.
 17 MR. DUNBAR: Right. I didn't know if he
 18 did it intentionally or not.
 19 MR. RILEY: No one dragged him out. I'm
 20 pretty sure of that.
 21 MR. DUNBAR: Mark Dietz from Williamson
 22 County has also left. I don't have a problem with
 23 continuing as long as -- because you're here to ask
 24 questions for Williamson County. I assume you're
 25 allowing him to leave and you're continuing without

1 him.
 2 MR. RILEY: Yes. He's got a, as he
 3 described it, doctor's appointment that he could not
 4 miss and so he decided to leave. And as we discussed
 5 earlier, I've been designated by Williamson County to
 6 take this deposition.
 7 MR. DUNBAR: Okay. That's fine. And
 8 Mr. Evans has returned.
 9 DR. EVANS: I apologize if I created a
 10 problem by leaving.
 11 MR. RILEY: No. We just wanted to know
 12 where you were.
 13 (Laughter)
 14 MR. RILEY: So we're happy to see you
 15 back.
 16 DR. EVANS: A little room down the --
 17 MR. RILEY: I understand.
 18 MR. DUNBAR: I mean, the point is,
 19 you're entitled to hear this all. And so if you
 20 leave, we don't want to do things without you present.
 21 DR. EVANS: Thank you. I appreciate
 22 that.
 23 Q (By Mr. Riley) I had asked you if you
 24 personally would financially benefit from defeating
 25 landfill applications in the Central Texas area, and I

1 believe you answered that you were uncertain of that.
 2 Is that correct?
 3 A I could. It depends on the circumstance.
 4 Q Would you say it was likely?
 5 A To the extent that it could restrict the flow
 6 over time to the ability of that landfill to continue
 7 to take waste beyond what it's already permitted to
 8 do, yes, it could.
 9 That might not occur for -- in the case
 10 of Williamson County, they have approximately
 11 35 years' capacity remaining, I believe, from their
 12 last annual report.
 13 So it may not affect me personally or
 14 any company that I own other than TJFA for 35 years.
 15 I may not be here in 35 years from now.
 16 Q I may not be either, although I'm doing my
 17 best. The point I was trying to make, Mr. Gregory, is
 18 that in addition to buying the property near
 19 landfills, which apparently TJFA has concluded is a
 20 wise investment, you have other interests that would
 21 be served by denial of expansion permits in Central
 22 Texas. Is that correct?
 23 A TJFA does not have other interests that would
 24 be served by denial of landfills in Central Texas.
 25 Q Okay. And you personally, though, do have

1 other interests in other companies that would benefit
 2 by TJFA's efforts to defeat those permits?
 3 A It depends, and it depends on the life of the
 4 landfill remaining and what else would happen.
 5 Q If you end up being the --
 6 A There's no general rule nor is it the role of
 7 TJFA to oppose permits. I know you're trying to do
 8 your best to show that that is the case, but I'm here
 9 to tell you that that's not the case.
 10 Q I know you're here to tell me that, but you
 11 agree with me, don't you, that the purchase of
 12 property around all of the Waste Management landfills
 13 in Central Texas suggests that you have a larger
 14 strategy in mind?
 15 Would you agree with that?
 16 A I have not purchased all of the landfill
 17 property around all the landfills in Central Texas.
 18 Q All of the Waste Management landfills --
 19 A I have not purchased property around all of
 20 those landfills.
 21 Q Which landfill that Waste Management owns or
 22 operates have you not purchased property around?
 23 A The Temple landfill is one that I've not
 24 purchased property around --
 25 Q I guess I --

1 A -- and that's certainly Central Texas. It
 2 depends on how you define "Central Texas."
 3 Q What areas does TDSL serve?
 4 A Excuse me?
 5 Q What areas of the state does TDSL serve?
 6 A TDSL serves or receives waste, I believe,
 7 from 20-something land -- counties. I'm sorry. I've
 8 forgotten now -- 21, 25 counties. They don't get all
 9 of the waste from it, but some waste from those.
 10 It's whatever is identified in our
 11 annual report.
 12 Q Does the -- is Temple one of the areas where
 13 TDSL would receive waste?
 14 A We receive waste from generators that
 15 generate waste in the area that Temple serves, yes.
 16 Q So other than the Temple landfill -- I'm
 17 sorry -- TJFA has purchased property around all the
 18 Waste Management landfills in Central Texas?
 19 A TJFA has purchased property in areas that I'm
 20 familiar with, which are in the general vicinity of
 21 Austin and San Antonio.
 22 Q Let's talk about the property that you
 23 purchased around your own landfill, with the TDSL
 24 landfill just for a moment.
 25 A There are two tracts.

1 Q When did you purchase the first tract?
 2 A I'm sorry. I don't recall. It was within
 3 the last three years, but the exact date I don't
 4 recall.
 5 Q Do you recall the purchase price?
 6 A I think they were in the \$150,000 -- each --
 7 range as I recall.
 8 Q All right. So let's try to identify them a
 9 little more specifically if we could. Let's talk
 10 about Tract No. 1.
 11 Could you identify for me in any way
 12 address, lot size --
 13 A I'm sorry. I don't know the address. They
 14 are both on Carl Road if that helps you. There's only
 15 about -- what -- five or six houses on Carl Road, and
 16 they are the two pretty much in the middle of the
 17 houses on Carl Road.
 18 They are adjacent to each other, and I
 19 don't know the address.
 20 Q So they are both residential properties?
 21 A Both residential. They are both leased as
 22 residential property with renters living in them now.
 23 Q I think you said earlier that you believe
 24 that you are or that TDSL is -- how would I say it?
 25 How would you say it -- that TDSL is in absolute

1 compliance with all laws and regulations regarding the
 2 operation of the landfill. Is that your statement?
 3 A As far as I know, yes, we are --
 4 Q Okay.
 5 A -- as TDSL.
 6 Q You have a substantial amount of hazardous
 7 waste on your site, don't you?
 8 A There is a substantial amount of waste stored
 9 in containers awaiting shipment off-site, and that
 10 waste contains approximately 6 to 10,000 pounds of
 11 hazardous waste.
 12 Q And that's about 19 roll-off boxes, if I
 13 remember correctly?
 14 A It's 99 roll-off boxes.
 15 Q I'm sorry. That's right. And how long has
 16 that waste been on your site?
 17 A The waste has been on my site since -- "my
 18 site," again TDSL's site. I have to be careful about
 19 saying the TDSL site -- since October 9, 1997.
 20 Q So we're going on a decade. Is that correct?
 21 A Just over nine years.
 22 Q So you've been storing hazardous waste at
 23 your site for over nine years?
 24 A That's correct.
 25 Q Do you have any authorization to do so?

1 A Yes, we do.
 2 Q By whom?
 3 A The TCEQ.
 4 Q And what form of authorization do you have?
 5 MR. DUNBAR: I'm going to object.
 6 MR. RILEY: I'm going to come to a point
 7 in second.
 8 MR. DUNBAR: Okay.
 9 Q (By Mr. Riley) What form of authorization do
 10 you have?
 11 A Written authorization from the TCEQ to
 12 excavate the waste and store it in containers pending
 13 shipment off-site to a hazardous waste landfill.
 14 Q What is preventing you from shipping the
 15 waste off-site to a hazardous waste landfill?
 16 A The generator who owns the waste has refused
 17 to ship it to a hazardous waste landfill.
 18 Q Nothing is preventing TDSL from making that
 19 shipment. Is that correct?
 20 A TDSL could ship the waste if it wanted to
 21 become the generator of the waste and assume the role
 22 of the generator and pay the cost of disposal in a
 23 hazardous waste landfill.
 24 Q What is the current plan for achieving
 25 compliance by removing that waste from an unauthorized

1 location?
 2 MR. DUNBAR: I'm going to object and
 3 instruct my client not to answer as being beyond the
 4 scope of this limited discovery for party status.
 5 Q (By Mr. Riley) Well, your point of why you
 6 have an interest in this matter is that you believe
 7 that a properly-operated landfill will increase the
 8 value of your investment properties. Is that correct?
 9 A That's correct.
 10 Q So you've purchased property near landfills
 11 presumably at a discounted price and you hope or you
 12 work toward greater compliance at a landfill so that
 13 the investment you've made in these properties in
 14 proximity to landfills increase in value. Is that
 15 correct?
 16 A That's correct.
 17 Q At your own landfill, then, have you had any
 18 instances of noncompliance?
 19 A In the life of the landfill?
 20 Q Yes, sir.
 21 A There, I believe, are a total of four
 22 violations in the 16 years of operation -- 15 or so
 23 years of operation -- one, mud on the road; one, too
 24 steep of a working face which is not even an issue,
 25 but it was an alleged violation; one, insufficient

Page 90

1 cover, I believe it was at one time, and one that we
2 were a few days late in checking a gas monitoring
3 well.
4 There was no problem other than just the
5 time frame, the number of days between checking.
6 Q When was the most recent instance of
7 noncompliance?
8 A I don't know. About eight years ago,
9 something like that. Some time ago.
10 Q How has the value of the property that you
11 purchased in the area of TDSL's landfill changed since
12 your original purchase?
13 A It has gone up in value.
14 Q How so? How do you know that?
15 A I know that from the standpoint of watching
16 other values of houses and land selling around it. I
17 do not have any appraisals on it since I've purchased
18 it.
19 So it's my belief that it would track
20 the improvement in value of other property selling
21 around it.
22 Q And since you've had no noncompliance and you
23 appeared to have achieved the nirvana that your
24 investment strategy is served by, what is your current
25 plan for divesting those properties?

Page 91

1 A I have no intention of divesting those
2 properties.
3 Q How will they improve in value, then?
4 A There are income-producing properties. The
5 plan for TJFA is not just to buy, see improvements and
6 sell. It's to draw income from them as leased
7 property.
8 Most all of our properties are
9 properties that have residences on them and in one
10 case a grazing lease where income is derived from the
11 property.
12 Q I'm talking about the properties around your
13 own landfill.
14 A I'm talking about most of the other -- of all
15 of the 10 TJFA-owned properties or residential
16 properties that draw income from a lease.
17 Q And I want to be specific to the properties
18 that you've described around the TDSL landfill.
19 A Both of those have residences on them and
20 both of them are leased and draw income in lease
21 revenue.
22 Q And are any of those properties -- I'm sorry.
23 Let me withdraw that question. What is the rent for
24 either or both of those properties?
25 A I don't recall exactly. I think one of them

Page 92

1 is just over 1,000, and I believe one of them is 700
2 or \$900. I get the properties confused, but I don't
3 have any of that documentation with me.
4 Q Do you have any mortgages on any of the TJFA
5 properties or is it owned outright?
6 A No, I borrow money. TJFA has a line of
7 credit at Chase Bank, and some of them I purchased
8 myself out of my own account, but most of them I have
9 borrowed money.
10 Q Does TJFA have an account?
11 A Yes.
12 Q Okay. And it has a line of credit?
13 A Yes.
14 Q Okay. And it also has apparently some income
15 into that account. Is that true?
16 A Oh, yes. Most of the properties have income
17 from them on a monthly basis.
18 Q Based on the rental values?
19 A Yes.
20 Q And what is the ratio -- well, sorry. What
21 is the amount borrowed on the two properties that are
22 in Travis County near the TDSL site?
23 A I'm sorry. I do not recall, I don't know
24 particularly how much is borrowed and how much of it
25 is from my own --

Page 93

1 Q Are there specific mortgages for each
2 property or is it out of this fund -- both funds of
3 TJFA and the line of credit, or is there a mortgage
4 for any of this property?
5 A They are collateral on a line of credit in
6 loans that we purchased property out of. I have
7 investment in the corporation that is my own money
8 that goes to the purchase of properties.
9 Q That's your own money, not TJFA's? That's
10 you're personal, Bobby Gregory, money?
11 A I have made contribution into TJFA into the
12 limited partnership of money that becomes the
13 partnership's money, and then the partnership owns the
14 assets.
15 Q How much money have you contributed to the
16 partnership?
17 A I think it's around a quarter million
18 dollars.
19 Q So back to the properties that are near the
20 TDSL site. The investment strategy for those
21 properties is simply to derive rental income. Is that
22 correct?
23 A It's to derive income as the property values
24 go up, and over time the assets grow in value greater
25 than the money owed against them and also from rental

1 income.

2 Q Is there a point at which you believe the

3 factor that you described which drives the investment

4 strategy; namely, the proper operation of the

5 landfill, maximizes for purposes of the individual

6 property value?

7 In other words, if you were operating in

8 compliance with the law as you've said your investment

9 strategy contemplates, the property value will go up?

10 A That's correct.

11 Q Is there some point at which, other than

12 normal appreciation of property, that factor is no

13 longer relevant? Hopefully, you understand what I'm

14 saying.

15 In other words, let me try to rephrase.

16 You said your investment strategy is generally to buy

17 property rental landfill, seek proper operation of the

18 landfill and reap the benefits from an increased

19 property value. Is that correct?

20 A It's to buy property around landfills knowing

21 that as rules change, as they already have, it will

22 result in increased property values, simply as a

23 natural result of entities following the rules and the

24 state requiring operators to upgrade their permits as

25 the opportunities arise to follow the rules.

1 Q So your investment strategy depends directly

2 on regulatory requirements changing and increasing

3 operational requirements?

4 A They benefit from it. I mean, face it. In

5 Central Texas, all the way from San Antonio to

6 Williamson County, we're in a very dynamic market. So

7 real estate prices are going up in general.

8 It just so happens that I believe that

9 buying property around landfills in this area is even

10 a greater opportunity for property values to go up

11 simply because I am aware -- the different hats that I

12 wear -- that regulations are becoming more stringent

13 and site operating plans are becoming upgraded.

14 As landfills grow and seek permit

15 modifications through site operating plans, through

16 changes in site development plans, the way they

17 operate will change and improve.

18 It just so happens that if they don't do

19 it or they submit plans that don't meet the rules, I

20 have an opportunity to speak against and speak out and

21 to encourage them to do that.

22 Q But your overall theory applies as much to

23 TDSL as it would to any other landfill, that as

24 restrictions or requirements become greater, then the

25 property that you've purchased under TJFA would

1 increase in value because there are greater

2 operational requirements for the TDSL site?

3 A That's correct, and that's why TJFA owns

4 property next to the TDS landfill as well.

5 Q So you think that purchasing property next to

6 a landfill is a bargain?

7 A It can be if you buy it right. If you pay

8 too much for it, you pay too much for it. But if you

9 are able to buy it right, it can be because conditions

10 will change.

11 Q And so your overall strategy is to buy low

12 and hold on to the property -- is that correct -- in

13 hope of greater regulatory requirements?

14 A I would like to say buy right, hold on to it

15 and improve the property in such a manner to draw

16 income from it whether it's residential property or

17 whether it's commercial property that can be developed

18 and leased for storing things or whatever.

19 Q Who owns the permit at the TDSL site?

20 A TDSL.

21 Q Is that a correct way to refer to the legal

22 status of a permit ownership?

23 MR. DUNBAR: Objection, form.

24 A Well, let me clarify. Texas Disposal Systems

25 Landfill, Inc. owns the landfill permit.

1 Q (By Mr. Riley) And that's the issue I want

2 to discuss with you.

3 A Okay.

4 Q Is it correct in your mind to say that

5 someone owns a permit?

6 A Yes.

7 Q In what sense?

8 A You do.

9 Q Could it be sold?

10 A Yes.

11 Q Without restriction?

12 A If a permit is sold from one entity to

13 another, the state gets involved as far as the

14 transfer of that permit.

15 History has shown that they will allow a

16 transfer as long as the party that's taking it over

17 can show that they can operate the facility.

18 Q Is it an asset to be sold?

19 A Absolutely.

20 Q And do you own your driver's license?

21 A I don't think I own my driver's license. I

22 think that's a privilege to drive. It's not something

23 I --

24 Q And so you distinguish your driver's license

25 from a permit?

1 A Totally. They're in no way, shape or form
 2 alike.
 3 Q Have you heard the phrase that a permit is
 4 issued in persona? Do you know what those words mean?
 5 A I actually don't know what in persona means.
 6 Help me out.
 7 Q Well, I'll Mr. Dunbar help you out on that.
 8 But it is your opinion, then, that the landfill permit
 9 is an asset that can be sold?
 10 A Without question.
 11 Q Without restriction? Without requirement for
 12 approval for transfer?
 13 A The TCEQ, as I stated a while ago, gets
 14 involved in the approval of a transfer from one name
 15 to another. It happens generally where a corporation
 16 that owns a permit sells the stock of its corporation,
 17 and within the value of that stock is the value of the
 18 permit.
 19 And as long as the entity buying the
 20 stock of the corporation maintains that same name,
 21 there's no need for the TCEQ to get involved because
 22 Landfill Operator, Incorporated, so to speak, just
 23 changed his hands from, say, Buyer Group No. 1 to
 24 Buyer Group No. 2 and they continue to operate it as
 25 Landfill Owner, Incorporated.

1 Q Well, if I wanted to transfer the permit from
 2 TDSL to TJFA -- and this, of course, is a
 3 hypothetical -- am I at liberty to do so?
 4 A Well, you couldn't do it. Me as the
 5 principal owner of TDSL could sell that permit to
 6 TJFA, and TJFA would have to qualify as a separate
 7 company if the state would allow it to transfer that
 8 permit.
 9 Q So it sells -- what is being sold in your
 10 mind?
 11 A The intangible right to operate under the
 12 bounds of the permit.
 13 Q Subject to TCEQ's discretion to transfer the
 14 permit to a new entity. Is that correct?
 15 A Well, to the extent that people want to
 16 change the name. Often, again, as I stated, these
 17 corporations sell the permit within the ownership
 18 fraction of the stock, and there is no approval
 19 process at the TCEQ.
 20 The stock simply changes hands from one
 21 group of owners to another group of owners. And as
 22 you well know, because Waste Management buys them
 23 throughout the nation all the time, they have huge
 24 values.
 25 Q That's a stock acquisition where the entity

1 doesn't change? Would you agree with me there? The
 2 ownership entity doesn't change?
 3 A If it's held by stock that is transferred to
 4 a new owner and the permit is held in the name of the
 5 stock, then it does not have to change.
 6 Q The reason I'm bringing up this topic -- and
 7 it may seem far afield -- is that you raised the issue
 8 of one of the primary concerns you have in this case
 9 is the ownership of the permit.
 10 A The owner and the control of the permit.
 11 Q What's the difference between ownership and
 12 control?
 13 A Well, who controls the ownership of any
 14 asset, one may control it as authority given by
 15 various means, and they may own a portion of it but
 16 not all of it but, yet, they control all of it.
 17 Q Your --
 18 A You could effectively have control of
 19 100 percent -- 100 percent control even though you own
 20 10 percent of the asset.
 21 My concern for Williamson County is, if
 22 the transfer of this permit and the way that it's
 23 being done results in Williamson County losing
 24 50 percent of the control to Waste Management and
 25 50 percent of the ownership being a co-permittee, then

1 Williamson County could be further intimidated by
 2 Waste Management into doing exactly what Waste
 3 Management wanted to, and then it would effectively
 4 become the permit of Waste Management.
 5 Q Further intimidated?
 6 A Further intimidated.
 7 Q In what sense has there been any intimidation
 8 that you're aware of personally as opposed to some
 9 rumor or story you want to make up?
 10 A I'm not making up any story and it's not a
 11 rumor. I've been told by the --
 12 Q Well, that would be someone telling you
 13 something. Do you have any personal knowledge of
 14 intimidation, or are you just repeating what you've
 15 been told?
 16 A I'm repeating what's been told to me by the
 17 county attorney's office as well as each commissioner
 18 and the county judge.
 19 Q The county attorney's office?
 20 A Steve Ackley, particularly.
 21 Q On what occasion did you speak with
 22 Mr. Ackley?
 23 A Mid June of this year.
 24 Q And what did he tell you about intimidation,
 25 specifically?

1 A He told me that Waste Management would sue
 2 the county if they did not follow through with the
 3 permit process that was underway.
 4 Q Is that intimidation in your mind?
 5 A I certainly took it as intimidation
 6 because --
 7 Q Why is that intimidating?
 8 A Pardon me?
 9 Q If there's a legal right held by Waste
 10 Management and they pursue a legal process, why is
 11 that intimidation?
 12 A I just -- it's my impression that --
 13 Q Isn't that what courts are for, Mr. Gregory?
 14 A -- it was conveyed to me that the county
 15 attorney's office, particularly Steve Ackley, each of
 16 the commissioners as well as the county judge was
 17 saying they would like to do something else but Waste
 18 Management will sue them if they don't follow
 19 through --
 20 Q Have you ever sued anyone?
 21 A Companies that I've been involved with and
 22 owned have sued, yes.
 23 Q Were you engaged in intimidation at the time?
 24 A It can be intimidating to --
 25 Q So in the instances where you brought a

1 lawsuit, you are trying to intimidate somebody or are
 2 you simply exercising your rights afforded to anybody?
 3 A If the threat to sue causes someone to do
 4 something that they themselves feel is not in their
 5 best interest, then that's intimidating.
 6 MR. TATU: Excuse me, gentlemen. I have
 7 to leave. Excuse me. I'm sorry.
 8 MR. DUNBAR: Are we almost done?
 9 MR. RILEY: Yeah, I think so.
 10 Q (By Mr. Riley) Let me see if I understand
 11 your point, then. You've sued people. But when you
 12 sue somebody, it's not intimidation?
 13 A It can be intimidation.
 14 Q So you've exercised legal process to
 15 intimidate?
 16 A The legal process that you do -- if it's
 17 intended just to intimidate rather than to follow
 18 through, then that's a step to intimidate.
 19 Q What information do you have that suggests
 20 that Waste Management had no intention to follow
 21 through with the lawsuit?
 22 A I don't believe that -- I didn't believe that
 23 they would follow through with a lawsuit.
 24 Q Well, that's your personal belief --
 25 A That's my personal belief.

1 Q -- but you weren't involved, were you? You
 2 weren't being sued.
 3 A Oh, I've been threatened to be sued by Waste
 4 Management on this issue.
 5 Q And you've sued Waste Management --
 6 A Absolutely.
 7 Q -- and that's a legal process.
 8 A Absolutely.
 9 Q So why do you deny to others when you avail
 10 yourself of it all the time?
 11 A I'm not denying it. I'm just saying as a
 12 fact they represented to me that it's an intimidation
 13 tactic by Waste Management.
 14 Q To threaten that you're going to bring a
 15 lawsuit to enforce a legal right? That's intimidation
 16 in your mind?
 17 A Yes.
 18 Q Okay. So any time you bring a lawsuit,
 19 you're trying to intimidate?
 20 A No, but it can be. I believe that Waste
 21 Management's efforts with Williamson County has been
 22 to intimidate.
 23 Q How many sets of rules do you have,
 24 Mr. Gregory -- one for you and one for everybody else?
 25 A No, I don't ask for anything --

1 Q Again, let me ask a question. As president
 2 of TDSL, which I believe is your primary business and
 3 primary source of income, whether you will verify that
 4 or not -- and I don't know why you're so shy about
 5 doing so -- name one other Class I landfill operator
 6 in the state or Class I landfill operation that you
 7 think meets your standard, your personal standard?
 8 A I think North Texas Municipal Water District
 9 does.
 10 Q How many landfills in the state of Texas?
 11 A How many Type I landfills in the state of
 12 Texas?
 13 Q Yes, sir.
 14 A That's a good question. I would -- I guess a
 15 little over 100.
 16 Q And that's the only one that you can say --
 17 A No. I think -- the Waste Management Covel
 18 Gardens, as I identified earlier, I think meets an
 19 operating criteria standard and operates --
 20 Q So --
 21 A I don't even --
 22 Q There's no question before you. You've
 23 mentioned now two landfills out of 100. So you're
 24 saying 98 percent of the landfills in the state of
 25 Texas are out of compliance?

1 A No. You cut me off and wouldn't let me
2 finish answering my question -- your question. I said
3 those are the two that came to mind. There are many
4 landfills in the state of Texas that I've never been
5 to and I'm not aware of.

6 So I'm not in any way, shape or form
7 suggesting that the landfill that I'm not even aware
8 of is operating out of compliance. It's your attempt
9 to try to get me to identify every one that rises to
10 the standard of TDS, and I'm trying to answer your
11 question.

12 Q I know you have a very high opinion of your
13 operation at TDSL, and I know that you feel as though
14 you're the operator of choice and you trumpet that
15 from any pulpit that someone will give you, but other
16 than your opinion on that subject, do you have any
17 objective evidence of that fact?

18 A I have 16 years of operating history around
19 the TDS landfill that demonstrates how we operate.

20 This very day while this deposition is
21 occurring, there is a public broadcasting camera crew
22 at my facility videotaping our facility for a program
23 called, "This Old House."

24 We have international acclaim with our
25 facility. This is not the first time we've been on

1 nationwide coverage for the way we operate and who we
2 are.

3 I would be there representing the
4 company if I wasn't here speaking to you about Waste
5 Management's concern about my business. But just
6 check the media. Check the media in the Austin area,
7 compare the TDS landfill operation with all the other
8 operations in the area and you will see the
9 difference, and 16 years of operating history shows
10 that we operate a good facility.

11 Q If I'm counting correctly, then, 10 of those
12 years you've stored hazardous waste without
13 authorization, and you still claim to be the operator
14 of choice?

15 A That is absolutely false representation. It
16 is with authorization from the TCEQ, and it's only by
17 Waste Management and TCEQ's efforts to keep the
18 material from being properly managed by the Executive
19 Director's efforts and TCEQ's --

20 Q Excuse me?

21 A -- that the Executive Director and Waste
22 Management's efforts to keep the material from flowing
23 from our site that has resulted in the material
24 staying there.

25 Q So the Executive Director of the TCEQ has

1 conspired to keep hazardous waste at your site?

2 A Yes.

3 Q Waste Management is part of that conspiracy?

4 A The very lawyer who would be sitting in your
5 chair, Derek McDonald, representing Baker Botts, has
6 worked for nine years on that case representing Penske
7 and also represents Waste Management and Williamson
8 County changed them as you know within the last year
9 from it being Derek McDonald representing them to you,
10 so that when these issues came up it wouldn't be the
11 issue of Derek McDonald and Baker Botts representing
12 Penske as well as Waste Management.

13 Q Are you on medication? Is it wearing off?

14 A I'm taking this deposition very seriously.

15 Q So let me -- let's talk about what you just
16 said. So your proposition is that Derek McDonald has
17 led a conspiracy to advocate for Penske through Waste
18 Management -- excuse me -- for Waste Management
19 through Penske to obstruct removal of hazardous waste
20 from TDSL. Is that your allegation?

21 A My statement is that Baker Botts, who also
22 represents Waste Management up until recently on this
23 landfill, also has represented Penske for some
24 years -- now, almost nine years -- to work to try to
25 keep the waste at the TDS landfill.

1 Q What does that anything -- how does that have
2 anything to do with Waste Management?

3 A How does whether TDS has hazardous waste
4 stored with proper authorization at TDS have anything
5 to do with Williamson County permitting a landfill --

6 Q Well, it's simple.

7 A -- and TJFA having --

8 MR. DUNBAR: I'm going to object. Let's
9 finish this deposition with the scope --

10 Q (By Mr. Riley) Well, I'm going to go a
11 little further here on the allegation that's been made
12 about a conspiracy, I guess, led by the law firm of
13 Baker Botts to advocate a position of Waste Management
14 through another client, Penske.

15 Is that what your statement is?

16 A That is my concern.

17 Q Concern? A moment ago you said it was an
18 absolute fact.

19 A I did not.

20 Q You said that the permit was transferred over
21 here to avoid these issues coming up in this case.

22 A I do believe that.

23 Q Do you have any basis for that?

24 A It's just the fact of the case. There is a
25 tremendous amount of documentation. There's multiple

1 lawsuits that exist between the parties involved, and
2 I don't think it's a coincidence that the same law
3 firm representing Waste Management also represent --
4 on this landfill, up until recently when you took
5 over, also represent Penske.

6 And it's interesting that you bring
7 these very things up in the course of the deposition
8 in an effort to try to make TDS look -- TDSL -- excuse
9 me -- look bad and even suggest that we are operating
10 without proper authorization when you know very well
11 that TDSL has full authorization to keep the material
12 in roll-off containers on its site pending all of the
13 litigation that is going on for it to be shipped off.

14 Q I don't know that at all. To put your mind
15 at ease, I have absolutely no interest in those
16 hazardous waste containers at your landfill site but
17 for the fact you're testifying in this matter that you
18 had an investment strategy that depends on absolute
19 compliance by a landfill in order for your investment
20 strategy to succeed.

21 This is the web you've spun,
22 Mr. Gregory, not something I'm imagining. What I'm
23 trying to drill down on is how your entity that you
24 formed for purpose of buying property near Waste
25 Management and other landfills is served in the

1 instance around TDSL when you know it to have
2 hazardous waste stored on-site.

3 A It's a perfect example of how you see it
4 completely different than TJFA sees it. TJFA buys
5 property around these landfills dependent upon the
6 state having people operate according to the law.

7 TDSL has spent multi-millions of dollars
8 trying to make sure that this material gets properly
9 disposed of. We have done everything within our power
10 legally to see that it is handled properly and
11 properly disposed of.

12 So that in no way suggests that TJFA has
13 made a mistake by buying property around the TDSL
14 landfill. It still fits within its model.

15 Q I understand what you've claimed to be its
16 model, Mr. Gregory. And, frankly, your credibility is
17 part of the deposition.

18 The fact that TJFA owns no other
19 property, I think, is a -- it's fair to say that
20 TJFA, its true motives hopefully will come out through
21 litigation.

22 But having said all of that, what I
23 really need to do is ask you questions and not have a
24 conversation.

25 So my last line of questioning is, what

1 basis do you have for making the statement that Waste
2 Management has anything whatsoever to do with your
3 matter involving Penske?

4 What rational relationship or basis do
5 you have for making that statement?

6 A Waste Management has -- what -- 30 or 40
7 landfills and transfer stations in the state of Texas.

8 What happened to TDSL was an entity -- a
9 generator -- who generated waste off-site and allowed
10 it to come into a permitted facility; in this case,
11 TDSL's facility on October 9, 1997.

12 I have gone as an industry player to
13 Waste Management asking them to join in to try to
14 protect the interest of permitted facilities, and
15 Waste Management to my knowledge has done everything
16 in their power to make sure that the state does not
17 follow through, even to the point of not objecting to
18 their own attorneys, Baker Botts, representing Penske
19 for all these years in making sure or trying to make
20 sure that the waste stays at the TDS landfill.

21 What happened to TDSL could happen to
22 Waste Management's landfills and transfer stations
23 throughout the state on any and every given day of the
24 year.

25 That same thing would -- the same blight

1 or Tar-Baby that has occurred with me and TDSL would
2 occur with them. If anything should draw the
3 companies together -- not only TDSL and Waste
4 Management, but the other companies -- it should be
5 the protection of the facility that a generator has to
6 properly manage their waste once generated.

7 Q Has any landfill joined you --

8 A The --

9 Q -- in the lawsuit? Has any landfill --

10 A No.

11 Q -- joined you in the lawsuit?

12 A No.

13 Q Joined you in your effort -- in your crusade?

14 A The -- I'm sorry. The association --

15 Q Has any company joined you, Mr. Gregory? A
16 simple question. See if you can answer it.

17 A NSWMA, the national --

18 Q Has --

19 A Let me answer the question.

20 Q I wish you would.

21 A The National Solid Waste Management
22 Association has joined us of which all of the
23 companies are a member --

24 Q Including Waste Management. Correct?

25 A -- but to answer you question, Waste

Page 114

1 Management has tried in every way, shape and form to
 2 keep that from any --
 3 Q Mr. Gregory, is Waste Management a member of
 4 NSWMA?
 5 A Yes, it is.
 6 Q Okay.
 7 MR. DUNBAR: Mr. Riley, I think this
 8 deposition has gone far enough along, beyond the
 9 hour-and-a-half --
 10 MR. RILEY: No, we're just getting
 11 started.
 12 MR. DUNBAR: -- and it looks like we're
 13 into an area and scope of discovery that is far beyond
 14 the limited scope intended to determine whether TJFA
 15 is going to be a party to this proceeding.
 16 MR. RILEY: And, Mr. Dunbar, let me
 17 explain to you my point. A moment ago your client was
 18 telling me of his investment strategy, why he buys
 19 properties around landfills.
 20 He's made it abundantly clear that his
 21 investment potential and investment strategy is only
 22 served when there's 100 percent compliance, whether
 23 it's an increase in regulatory oversight or a number
 24 of other factors that he believes will occur, and
 25 that's why he's made these investments.

Page 115

1 Yet, when confronted with questions
 2 about the landfill that he has direct control over and
 3 an issue that he just a moment ago described as a
 4 Tar-Baby, I can't drill down on it because he refuses
 5 to answer the question in the context of his
 6 investment strategy.
 7 He chooses, instead, to make allegations
 8 of conspiracy, law firms joining together,
 9 nonparticipation in his crusade, and I think this is
 10 all within the scope of your client's answers.
 11 If he had answered my question directly,
 12 we wouldn't be here.
 13 MR. DUNBAR: He answered the question
 14 and determined that he believed that TDSL has
 15 authorization with TCEQ regarding those hazardous
 16 waste barrels.
 17 MR. RILEY: He also made allegations
 18 regarding another law firm and my client.
 19 MR. DUNBAR: And we've discussed it and
 20 you just want to continue on discussing it, and I
 21 would like that to stop, because I believe it's beyond
 22 the scope of discovery of this deposition.
 23 I'm sure there's other proper venues in
 24 which all of this can be discussed at another time.
 25 MR. RILEY: I'm afraid that's going to

Page 116

1 be so.
 2 MR. DUNBAR: So -- and I know we're
 3 beyond time, but I was willing to give you a little
 4 bit more time --
 5 MR. RILEY: I appreciate it, and I
 6 appreciate what you've done, but I have to say that
 7 some of the reason we're going so far afield is
 8 clearly your client's desire to expound on his
 9 paranoia regarding Waste Management and others.
 10 And simply exploring the areas that he's
 11 made absolutely unsupported -- totally unsupported --
 12 statements about conspiracies and the Executive
 13 Director of the agency, I think those are --
 14 MR. DUNBAR: And we've discussed them
 15 and I think it's time to move on to another topic, if
 16 you have any. Otherwise --
 17 DR. EVANS: Can I ask a question? Is
 18 that --
 19 MR. RILEY: Almost. Almost. It's
 20 almost your turn.
 21 MR. DUNBAR: He gets to finish first.
 22 So are we almost done or do you have another line of
 23 questions?
 24 Q (By Mr. Riley) Well, given what you've said
 25 about your theories of Waste Management's lack of

Page 117

1 support and working through law firms, the
 2 disadvantage apparently of other clients and other
 3 allegations you've made, isn't it fair, Mr. Gregory,
 4 to say that the real objective of TJFA -- I think it's
 5 too good to let go -- Texas Justice For All -- is to
 6 obstruct the efforts of Waste Management?
 7 A No.
 8 MR. RILEY: Pass the witness.
 9 DR. EVANS: May I ask a question?
 10 MR. RILEY: It's your turn, Dr. Evans.
 11 EXAMINATION
 12 BY DR. EVANS:
 13 Q Please appreciate my empiricism and tendency
 14 to be a little bit numerical oriented. It's my
 15 background in research analysis and design in
 16 mathematics and computer science.
 17 Are you aware that TCEQ rates landfills?
 18 A TECQ what?
 19 Q Rates landfills.
 20 A Rates landfills?
 21 Q Yes.
 22 A They rate compliance history, I know, of
 23 landfill operators.
 24 Q Yes.
 25 A Is that what you're referring to?

1 Q That's what I'm talking about.
 2 A Yeah, I'm aware of that.
 3 Q Do you know the ratings of landfills in
 4 Central Texas?
 5 A I actually don't know the ratings of them.
 6 Q What is the ratings of your landfill?
 7 A We have no violations. So we have -- I know
 8 we don't have any negative to us because there are no
 9 violations since they've started doing any ratings,
 10 but I don't know what that translates to, whether it
 11 means superior or nonrated.
 12 So I really can't answer the question on
 13 that.
 14 Q Well, that's what I'm getting at. And by
 15 asking this question I do not accept the scientific
 16 nature of their rating because I've not examined it.
 17 So I do not know that the word "average"
 18 has any statistical reliability, because "average" to
 19 me is a very specific meaning and does not mean so-so,
 20 but it means the median -- that type of a thing.
 21 Are you saying that your landfill is
 22 rated as superior by TCEQ?
 23 A I'm saying that, to my knowledge, since
 24 ratings have been applied, there have been no
 25 violations related to TDSL. Therefore, it has as good

1 a rating as it can have.
 2 I don't know whether that translates to
 3 zero or to superior or a 10. I have so little
 4 confidence in the rating system, I actually do not
 5 know what any of the landfills are rated.
 6 Q Would you be surprised if I knew what those
 7 ratings were?
 8 A I would not at all be surprised of that,
 9 Dr. Evans.
 10 MR. RILEY: I would be a little
 11 surprised.
 12 DR. EVANS: You would be?
 13 MR. RILEY: I would be easily surprised.
 14 Q (By Dr. Evans) Well, of course, this would
 15 not be a question. I am familiar with your rating and
 16 the rating of the two landfills of BFI's and Waste
 17 Management's and of the Williamson County.
 18 So that is the -- I would -- if I wanted
 19 to know what you thought -- if I wanted to know how
 20 your landfill rated, I would have pursued it in an
 21 empirical method rather than a --
 22 A Since I don't know how any of them rate, I
 23 can't refer -- I can't answer your question. I'm
 24 sorry.
 25 Q I'm also familiar with the Nacogdoches City

1 Landfill which is where I lived for 20 years. I do
 2 not know their rating, but I would be glad to
 3 investigate it if that would be helpful to your
 4 deposition.
 5 MR. RILEY: This is fine, but I know
 6 you're -- this is not your field, doctor, but, really,
 7 the purpose of this --
 8 DR. EVANS: Please don't put me down.
 9 MR. RILEY: No, I'm not. I'm actually
 10 going to build you up. You're supposed to ask
 11 questions of this guy if you would like to.
 12 DR. EVANS: Well, I noticed you had
 13 quite a lot to say, too.
 14 MR. DUNBAR: And, doctor, let me just
 15 say that what this deposition is for was the limited
 16 scope to investigate, I believe, the economic growth
 17 or interest of TJFA in its pursuit of seeking party
 18 status in this matter.
 19 DR. EVANS: Yes. Nevertheless, one of
 20 the questions asked is what he thought of how his
 21 landfill -- and it's in that light that I think that
 22 Mr. Riley raised the issue and it was in -- I think
 23 some objective light could be shed on that question if
 24 that's an important question.
 25 MR. RILEY: I'm sure we're going to get

1 to that, doctor, at some point in this hearing. So I
 2 think it is an important question and I'm sure we are
 3 going to cover it.
 4 I'm not sure if Mr. Gregory can help you
 5 out in answering questions about it.
 6 WITNESS GREGORY: I'll know the answer
 7 if it comes up again.
 8 DR. EVANS: I'm surprised you don't know
 9 the answer, quite honestly. It's quite easily
 10 discovered.
 11 WITNESS GREGORY: I'll look for it.
 12 MR. RILEY: Do you have any questions
 13 you want to ask him about -- and I'm just asking. I'm
 14 not -- do you have any questions you want to ask him
 15 about his affected person status in this matter as
 16 he's described it or anything --
 17 DR. EVANS: Oh, no. I think the
 18 question is, does he have affected status?
 19 MR. RILEY: That's the issue that we are
 20 trying to -- that we're in discovery about.
 21 DR. EVANS: I think that would depend on
 22 the extent to which the judge follows the letter of
 23 the law.
 24 MR. DUNBAR: And the question is, do you
 25 have any questions of Mr. Gregory at this point in

1 time? That's what we're --
 2 DR. EVANS: To him? No, I don't think I
 3 could add anything to what's happened here.
 4 MR. DUNBAR: Okay.
 5 MR. RILEY: Well, I think what we
 6 usually say, because we're going to do more
 7 depositions, is, when you're through asking questions
 8 of the witness, if you want to pass the witness, then
 9 you just say "pass the witness."
 10 DR. EVANS: Pass.
 11 MR. DUNBAR: I have no questions at this
 12 time. Thank you.
 13 (Proceedings concluded at 4:41 p.m.)
 14 WITNESS: BOBBY EDWARD GREGORY DATE: 11-7-2006
 15 CHANGES AND SIGNATURE
 16 PAGE LINE CHANGE REASON
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

1 _____
 2 _____
 3 _____
 4 _____
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

1 _____
 2 _____
 3 _____
 4 _____
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 I, BOBBY EDWARD GREGORY, have read the
 11 foregoing deposition and hereby affix my signature
 12 that same is true and correct, except as noted above.
 13 _____
 14 BOBBY EDWARD GREGORY
 15 THE STATE OF _____)
 16 COUNTY OF _____)
 17 Before me, _____, on this day
 18 personally appeared BOBBY EDWARD GREGORY, known to me
 19 or proved to me on the oath of _____
 20 or through _____ (description of
 21 identity card or other document) to be the person
 22 whose name is subscribed to the foregoing instrument
 23 and acknowledged to me that he/she executed the same
 24 for the purposes and consideration therein expressed.
 25 Given under my hand and seal of office on
 this ____ day of _____, _____.

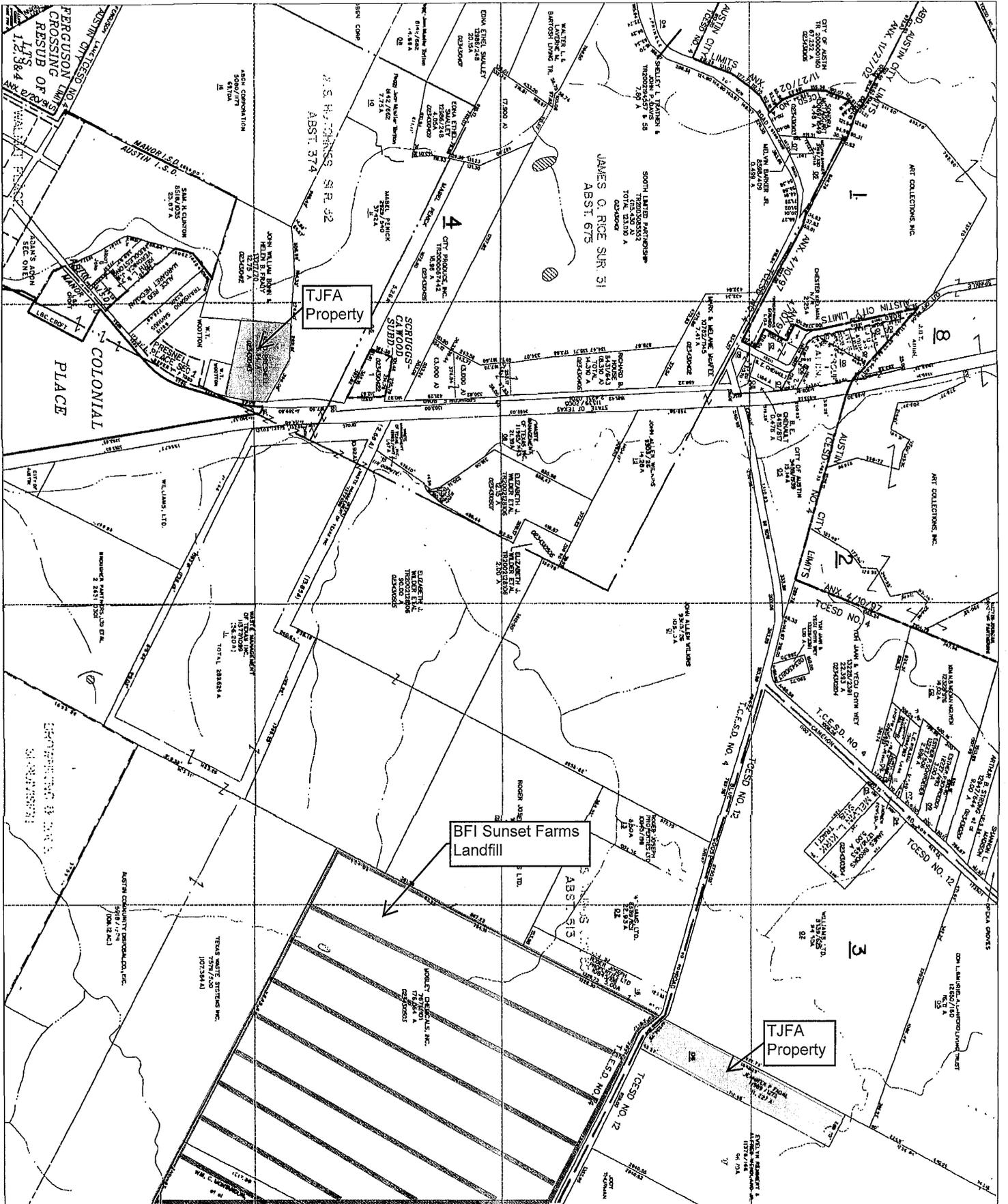
 NOTARY PUBLIC IN AND FOR
 THE STATE OF _____
 My Commission Expires: _____

1 TRANSCRIPT OF PROCEEDINGS
 2 BEFORE THE
 3 STATE OFFICE OF ADMINISTRATIVE HEARINGS
 4 (FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)
 5 AUSTIN, TEXAS
 6 IN THE MATTER OF: _____) SOAH DOCKET NO.
 7 WILLIAMSON COUNTY RECYCLING _____) 582-06-3321
 8 & DISPOSAL FACILITY _____) TCEQ DOCKET NO.
 9 _____) 2005-0037-MSW
 10 REPORTER'S CERTIFICATE
 11 ORAL DEPOSITION OF BOBBY EDWARD GREGORY
 12 TUESDAY, NOVEMBER 7, 2006
 13 I, William C. Beardmore, Certified Shorthand
 14 Reporter in and for the State of Texas, hereby certify
 15 to the following:
 16 That the witness, BOBBY EDWARD GREGORY, was
 17 duly sworn and that the transcript of the deposition
 18 is a true record of the testimony given by the
 19 witness;
 20 That the deposition transcript was duly
 21 submitted on _____ to the attorney/witness
 22 for examination, signature and return;
 23 That pursuant to information given to the
 24 deposition officer at the time said testimony was
 25 taken, the following includes all parties of record
 and the amount of time used by each party at the time
 of the deposition:
 John Riley (Two Hours, 9 minutes)
 Attorney for Waste Management of Texas, Inc.
 Orlynn Evans (6 minutes)
 Party Representative For Mount Hutto Aware
 Citizens
 I further certify that I am neither counsel
 for, related to, nor employed by any of the parties in
 the action in which this proceeding was taken, and

1 further that I am not financially or otherwise
2 interested in the outcome of the action.
3 Certified to by me this 10th day of November,
4 2006.
5
6

7 William C. Beardmore,
8 Certified Shorthand Reporter
9 CSR No. 918 - Expires 12/31/06
10 Firm Certification No. 276
11 Kennedy Reporting Service, Inc.
12 Cambridge Tower
13 1801 Lavaca Street, Suite 115
14 Austin, Texas 78701
15 512.474.2233
16
17
18
19
20
21
22
23
24
25

EXHIBIT C

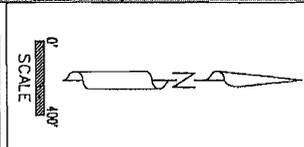


MAP NO.

2	3431
2	4221 2 4231 2 4241
2	3421 2 3441
2	2851 2 2831 2 2841

1"=100' MAP REFERENCE

0	0.000	0	0.000
1	1.250	2	2.500
3	3.750	4	5.000



TRAVIS CENTRAL APPRAISAL DISTRICT
 8314 Cross Park Drive P.O. Box 149012
 Austin, Tx 78754 Austin, Tx 78714
 Internet Address WWW.TRAVISCAD.ORG
 Main Telephone Number (512)834-9317 Appraisal Information (512)834-9138
 Fax Number (512)835-5371 TDD (512)836-3328

ASSOCIATIONS
 AUSTIN COUNTY COLLEGE
 CITY OF AUSTIN
 AUSTIN ISD
 LUBBOCK ISD
 T.C.S.D. NO. 4
 T.C.S.D. NO. 12
 TRAVIS COUNTY

REVISIONS
 01/28/2004 HRC

==== BFI Sunset Farms Landfill [] TJFA

EXHIBIT D

TaxNetUSA: Travis County

Property ID Number: **236617** Ref ID2 Number: **02343103060000**

Owner's Name TJFA L P

Property Details

Mailing Address % ARMBRUST & BROWN L L P
ATTN KIMBERLY S BECKHAM
100 CONGRESS AVE STE 1300
AUSTIN, TX 78701-2744

Location 5510 BLUE GOOSE RD

Legal ABS 513 SUR 55 MUNOS L ACR 11.2240 (1-D-1)

Deed Date 11232004
Deed Volume
Deed Page
Exemptions
Freeze Exempt F
ARB Protest F
Agent Code 2006
Land Acres 11.2240
Block
Tract or Lot
Docket No.
Abstract Code A0513
Neighborhood Code CACRE

Value Information

2007 Certified

Land Value 0.00
Improvement Value 0.00
AG Value 89,792.00
AG Productivity Value 1,604.00
Timber Value 0.00
Timber Productivity Value 0.00
Assessed Value 89,792.00
10% Cap Value 0.00
Total Value 89,792.00

Data up to date as of 2008-02-01

Value By Jurisdiction

Entity Code	Entity Name	2007 Tax Rate	Assessed Value	Taxable Value	Market Value	Appraised Value
0A	TRAVIS CENTRAL APP DIST		1,604.00	1,604.00	89,792.00	1,604.00
03	TRAVIS COUNTY	0.421600	1,604.00	1,604.00	89,792.00	1,604.00
2J	TRAVIS CO HEALTHCARE DIST	0.069300	1,604.00	1,604.00	89,792.00	1,604.00
34	MANOR ISD	1.515000	1,604.00	1,604.00	89,792.00	1,604.00
68	AUSTIN COMM COLL DIST	0.098500	1,604.00	1,604.00	89,792.00	1,604.00
72	TRAVIS CO ESD NO 12	0.100000	1,604.00	1,604.00	89,792.00	1,604.00

Improvement Information

Improvement ID State Category Description

Segment Information

Imp ID Seg ID Type Code Description Class Effective Year Built Area
Total Living Area 0

Land Information

Land ID Type Code SPTB Code Homesite Size-Acres Front Depth Size-Sqft
349904 IMPR D1 F 11.224 0 0 488,917

11-GF# 12333 BLH
RETURN TO: HERITAGE TITLE
401 CONGRESS, SUITE 1500
AUSTIN, TEXAS 78701



WD
4 PGS

4
2004220463

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS: THAT
COUNTY OF TRAVIS §

JENNIFER P. FADAL, an individual residing in Travis County, Texas ("Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to Grantor in hand paid by **TJFA, L.P.**, a Texas limited partnership ("Grantee"), the receipt and sufficiency of which consideration are hereby acknowledged and confessed, and for which no lien, express or implied is retained, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, unto Grantee, subject to all of the reservations, exceptions and other matters set forth or referred to herein, the following described property:

That certain real property in Travis County, Texas, which is described on Exhibit "A" attached hereto and incorporated herein by reference, together with all appurtenances (the "Property").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, and Grantee's successors or assigns, forever; and, subject to all of the matters set forth or referred to herein, Grantor does hereby bind itself and its successors to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise; provided, however that this conveyance is made by Grantor and accepted by Grantee subject to: (a) all of the title exceptions revealed in or by the recorded documents and other matters listed on Exhibit "B" attached hereto and incorporated herein by reference; and (b) all standby fees, taxes and assessments by any taxing authority for the current and all subsequent years, and all liens securing the payment of any of the foregoing.

AS A MATERIAL PART OF THE CONSIDERATION FOR THIS TRANSACTION, GRANTOR AND GRANTEE AGREE THAT GRANTEE ACCEPTS THE PROPERTY "AS IS, WHERE IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR A PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE, EXCEPT AS EXPRESSLY SET FORTH ABOVE, IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITIONS BUT IS RELYING ON GRANTEE'S EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, OTHER

THAN THE SPECIAL WARRANTY OF TITLE, AND THAT THE PURCHASE PRICE REFLECTED THE "AS IS," "WHERE IS" NATURE OF THE TRANSACTION.

EXECUTED AND DELIVERED as of the 23rd day of November, 2004.

GRANTOR:

Jennifer P. Fadal
JENNIFER P. FADAL

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on November 23, 2004, by Jennifer P. Fadal, an individual residing in Travis County, Texas.

[Handwritten Signature]

Notary Public Signature

(seal)

AFTER RECORDING RETURN TO:

KRISTOFER KASPER
ARMBRUST & BROWN, L.L.P.
100 CONGRESS AVE., SUITE 1300
AUSTIN, TEXAS 78701

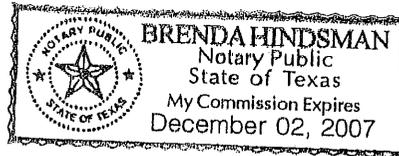


EXHIBIT "A"

CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.
1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

October 18th, 2004

FIELD NOTE DESCRIPTION OF 11.224 ACRES OF LAND OUT OF LUCAS MUNOS SURVEY, ABSTRACT NO. 513 IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (11.227 ACRE) TRACT OF LAND AS CONVEYED TO JENNIFER P. FADAL BY DEED RECORDED IN VOLUME 11989, PAGE 1273 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the North right-of-way line of Blue Goose Road for the Southwest corner of that certain (11.227 acre) tract of land as conveyed to Jennifer P. Fadal by deed recorded in Volume 11989, Page 1273 of the Official Public Records of Travis County, Texas same being the Southwest corner and **PLACE OF BEGINNING** of the herein described tract;

THENCE leaving the North right-of-way line of Blue Goose Road with the West line of said Fadal (11.227 acre) tract, **N 30 deg. 05'35"E 1643.49 ft.** to a ½" iron rod found for the Northwest corner of said Fadal (11.227 acre) tract, same being the Northwest corner of this tract and an angle corner of that certain (94.5 acre) tract of land as conveyed to Evelyn J. Remmert and Alfred G. Wendland by deed recorded in Volume 11378, Page 166 of the Real Property Records of Travis County, Texas, from which a ½" iron rod found for a corner of that certain (94.5 acre) tract of land as conveyed to Williams. Ltd. by deed recorded in Volume 8339, Page 625 of the Deed Records of Travis County, Texas, and the Southeast corner of that certain (76.71 acre) tract of land as conveyed to the Don L. and Muriel A. Lanford Living Trust by deed recorded in Volume 12650, Page 160 of the Real Property Records of Travis County, Texas, bears, **N 30 deg. 11'47"E 105.02 ft.**;

THENCE with the common line of said Remmert (94.50 acre) tract and said Fadal (11.227 acre) tract, the following two (2) courses;

1) **S 61 deg. 12'57"E 288.00 ft.** to a ½" iron rod found for the Northeast corner of this tract;

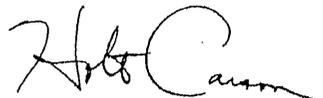
2) **S 30 deg. 02'34"W 1713.14 ft.** to a ½" iron rod found in the North right-of-way line of Blue Goose Road for the Southwest corner of said Remmert (98.70 acre) tract, same being the Southeast corner of said Fadal (11.227 acre) tract and the Southeast corner of this tract, from which the Southeast corner of said Remmert (98.70 acre) tract bears, **S 60 deg. 44'26"E 927.61 ft.**;

THENCE with the North right-of-way line of Blue Goose Road the following two (2) courses;

1) **N 60 deg. 40'05"W 43.49 ft.** to a ½" iron rod found at a point of curvature;

2) along a curve to the right with a radius of 465.35 ft., for an arc length of 257.31 ft., and which chord bears, **N 45 deg. 23'56"W 254.05 ft.** to the **PLACE OF BEGINNING** containing 11.224 acres of land.

SURVEYED: October 18th, 2004



Holt Carson
Registered Professional Land Surveyor No. 5166



see accompanying map: A 726076

EXHIBIT "B"

PERMITTED EXCEPTIONS

Fence outset along the southeast property line and fence inset along the southwest property line as shown on the survey dated October 18, 2004, prepared by Holt Carson, Registered Professional Land Surveyor No. 5166.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2004 Nov 24 03:34 PM 2004220463

EVANSK \$20.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

EXHIBIT E

TaxNetUSA: Travis County

Property ID Number: 236632 Ref ID2 Number: 02343104130000

Owner's Name **TJFA L P**
 Mailing Address % ARMBRUST & BROWN L L P
 ATTN KIMBERLY S BECKHAM
 100 CONGRESS AVE STE 1300
 AUSTIN, TX 78701-2744
 Location 9900 SPRINGDALE RD
 Legal ABS 374 SUR 32 HOTCHKISS W S ACR 5.5900

Property Details

Deed Date 12162004
 Deed Volume
 Deed Page
 Exemptions
 Freeze Exempt F
 ARB Protest F
 Agent Code 2006
 Land Acres 5.5900
 Block
 Tract or Lot
 Docket No.
 Abstract Code A0374
 Neighborhood Code CACRE

Value Information

2007 Certified

Land Value 55,900.00
 Improvement Value 82,565.00
 AG Value 0.00
 AG Productivity Value 0.00
 Timber Value 0.00
 Timber Productivity Value 0.00
 Assessed Value 138,465.00
 10% Cap Value 0.00
 Total Value 138,465.00

Data up to date as of 2008-02-01

Value By Jurisdiction

Entity Code	Entity Name	2007 Tax Rate	Assessed Value	Taxable Value	Market Value	Appraised Value
0A	TRAVIS CENTRAL APP DIST		138,465.00	138,465.00	138,465.00	138,465.00
03	TRAVIS COUNTY	0.421600	138,465.00	138,465.00	138,465.00	138,465.00
2J	TRAVIS CO HEALTHCARE DIST	0.069300	138,465.00	138,465.00	138,465.00	138,465.00
34	MANOR ISD	1.515000	138,465.00	138,465.00	138,465.00	138,465.00
57	TRAVIS CO ESD NO 4	0.100000	138,465.00	138,465.00	138,465.00	138,465.00
68	AUSTIN COMM COLL DIST	0.098500	138,465.00	138,465.00	138,465.00	138,465.00

Improvement Information

Improvement ID	State Category	Description
196343	A1	1 FAM DWELLING

Segment Information

Imp ID	Seg ID	Type Code	Description	Class	Effective Year Built	Area
196343	228356	1ST	1st Floor	WW	1960	1,526
196343	957393	011	PORCH OPEN 1ST F	*	1960	12
196343	957394	041	GARAGE ATT 1ST F	WW	1960	399
196343	957395	095	HVAC RESIDENTIAL	*	1960	1,526
196343	957396	251	BATHROOM	*	1960	2
196343	957397	612	TERRACE UNCOVERD	*	1960	320

Total Living Area 1,526

Land Information

Land ID	Type Code	SPTB Code	Homesite	Size-Acres	Front	Depth	Size-Sqft
---------	-----------	-----------	----------	------------	-------	-------	-----------

233095

LAND

A1

T

5.590

0

0

243,500



9

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Stamps

WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS: THAT
COUNTY OF TRAVIS §

EARL CARROLL HOCKER, DAVID SHANKLE, ROGER SHANKLE, RONALD GARY PRESNELL, BEVERLY SUE PRESNELL GILLEY, STEVE BARRY PRESNELL, AND LINDA LOU PRESNELL YEITER (collectively, "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to Grantor in hand paid by **TJFA, L.P.**, a Texas limited partnership ("Grantee"), whose mailing address is c/o Armbrust & Brown, L.L.P., Attention: Kimberly S. Beckham, 100 Congress, Suite 1300, Austin, Texas 78701, the receipt and sufficiency of which consideration are hereby acknowledged and confessed, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, unto Grantee, subject to all of the reservations, exceptions and other matters set forth or referred to herein, the following described property:

- (i) That certain real property in Travis County, Texas, which is described on Exhibit "A" attached hereto and incorporated herein by reference, together with all oil, gas, and other minerals in or under the surface thereof, and all executory leasing rights with respect thereto (the "Land");
- (ii) All buildings, structures, parking areas, utility lines, utility facilities, utility improvements, street and drainage improvements, and other improvements of any kind or nature located in, on, or under the Land (all of the foregoing being referred to herein collectively as the "Improvements");
- (iii) All equipment, fixtures, and other items of any kind or nature which are attached or affixed to the Land or the Improvements, including, without limitation, all electrical, gas, plumbing, air conditioning, and heating installations and equipment, and all built-in appliances and other items of equipment (all of the foregoing being referred to herein collectively as the "Fixtures"); and
- (iv) All appurtenances benefitting or pertaining to the Land or the Improvements, including, without limitation, all of Grantor's right, title, and interest in and to all streets, alleys, rights-of-way, or easements adjacent to or benefitting the Land, and all strips or pieces of land abutting, bounding, or adjacent to the Land (all of the foregoing being referred to herein collectively as the "Appurtenances").

The Land, Improvements, Fixtures, and Appurtenances are collectively referred to herein as the "Property".

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, and Grantee's successors or assigns, forever; and, subject to all of the matters set forth or referred to herein, Grantor does hereby bind itself and its successors to **WARRANT AND FOREVER DEFEND** all and singular the Property unto Grantee, Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof; provided, however that this conveyance is made by Grantor and accepted by Grantee subject to: (a) all of the title exceptions revealed in or by the recorded documents and other matters listed on Exhibit "B" attached hereto and incorporated herein by reference; and (b) all standby fees, taxes and assessments by any taxing authority for the current and all subsequent years, and all liens securing the payment of any of the foregoing.

EXECUTED AND DELIVERED as of the 16 day of December, 2004.

EARL CARROLL HOCKER

David Shankle

DAVID SHANKLE

Roger Shankle

ROGER SHANKLE

Ronald Gary Presnell

RONALD GARY PRESNELL

BEVERLY SUE PRESNELL GILLEY

STEVE BARRY PRESNELL, by and through
his attorney-in-fact, Beverly Sue Presnell Gilley

Linda Lou Presnell Yeiter

LINDA LOU PRESNELL YEITER

The Land, Improvements, Fixtures, and Appurtenances are collectively referred to herein as the "Property".

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, and Grantee's successors or assigns, forever; and, subject to all of the matters set forth or referred to herein, Grantor does hereby bind itself and its successors to **WARRANT AND FOREVER DEFEND** all and singular the Property unto Grantee, Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof; provided, however that this conveyance is made by Grantor and accepted by Grantee subject to: (a) all of the title exceptions revealed in or by the recorded documents and other matters listed on Exhibit "B" attached hereto and incorporated herein by reference; and (b) all standby fees, taxes and assessments by any taxing authority for the current and all subsequent years, and all liens securing the payment of any of the foregoing.

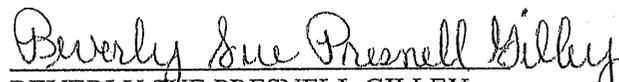
EXECUTED AND DELIVERED as of the ____ day of December, 2004.

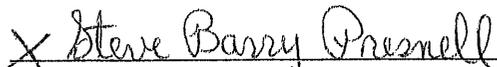
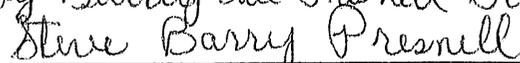

EARL CARROLL HOCKER

DAVID SHANKLE

ROGER SHANKLE

RONALD GARY PRESNELL


BEVERLY SUE PRESNELL GILLEY


STEVE BARRY PRESNELL, by and through
his attorney-in-fact, Beverly Sue Presnell Gilley
by Beverly Sue Presnell Gilley, P.O.A. for

LINDA LOU PRESNELL YEITER

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 21, 2004, by Earl Carroll Hocker.



Terri Talley Nassour
Notary Public Signature

STATE OF TEXAS §
COUNTY OF TRAVIS §

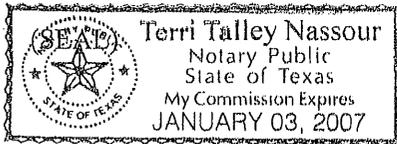
This instrument was acknowledged before me on December 16, 2004, by David Shankle.



Terri Talley Nassour
Notary Public Signature

STATE OF TEXAS §
COUNTY OF TRAVIS §

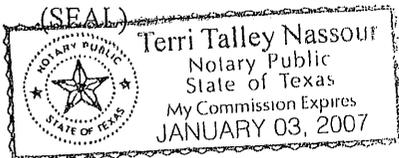
This instrument was acknowledged before me on December 16, 2004, by Roger Shankle.



Terri Talley Nassour
Notary Public Signature

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 16, 2004, by Ronald Gary Presnell.



Terri Talley Nassour
Notary Public Signature

STATE OF TEXAS §
COUNTY OF ~~TRAVIS~~ §

WILLIAMSON

This instrument was acknowledged before me on Dec 15th, 2004, by Beverly Sue Presnell Gilley, individually and in her capacity as attorney-in-fact for Steve Barry Presnell.



Katy W. Safarik
Notary Public Signature

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 200__, by Linda Lou Presnell Yeiter.

(SEAL)

Notary Public Signature

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 200__, by Beverly Sue Presnell Gilley, individually and in her capacity as attorney-in-fact for Steve Barry Presnell.

(SEAL)

Notary Public Signature

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 16, 2004, by Linda Lou Presnell Yeiter.

(SEAL)



Terri Talley Nassour
Notary Public Signature

EXHIBIT A

**CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.**

1904 FORTVIEW ROAD
AUSTIN, TEXAS 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

November 5, 2004

FIELD NOTE DESCRIPTION OF 5.59 ACRES OF LAND OUT OF THE WILLIAM S. HOTCHKISS SURVEY NO. 32 IN TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THOSE CERTAIN (68.29 ACRES) CONVEYED TO PAUL H. PRESNELL AND WIFE, FAE DELLA PRESNELL, BY DEED RECORDED IN VOLUME 820 PAGE 619 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½ inch iron pipe found at the northwest corner of those certain (68.29 Acres) conveyed to Paul H. Presnell and wife, Fae Della Presnell, by deed recorded in Volume 820 Page 619 of the Deed Records of Travis County, Texas, and being also at the northwest corner of that certain (44.61 Acre) tract described in Volume 845 Page 101 of the Deed Records of Travis County, Texas, and being at an angle point in the south line of that certain (42.68 Acre) tract conveyed to Mabel Rowzee Penick and Irene Rowzee by deed recorded in Volume 2929 Page 540 of the Travis County Deed Records, according to Marlon O. Metcalfe, Registered Professional Surveyor No. 555, who is cited in said deed as having surveyed said Rowzee tract, and as shown on his map of "Partition of the T.J. Rowzee Estate Farm", numbered "plan 6883" and dated February 1964, and being the northwest corner and PLACE OF BEGINNING of the herein described tract of land;

THENCE with the north line of said Presnell (68.29 Acre) tract, being the south line of said Rowzee tract, the following two courses:

- 1) S 83 deg. 10' 50" E 262.95 ft. to a ½ inch iron pipe found;
- 2) S 61 deg. 29' 38" E 384.31 ft. to a ½ inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the west right-of-way line of Springdale Road, and being a point in the west line of that certain tract described as conveyed to Travis County by that right-of-way deed recorded in Volume 1748 Page 323 of the Deed Records of Travis County, Texas, and being at the northeast corner of this tract, and from which a ½ inch iron pipe found at the southeast corner of said Rowzee tract bears S 61 deg. 29' 38" E 12.18 ft.;

THENCE crossing the interior of said (44.61 Acre) tract, with the west right-of-way line of Springdale Road, being west line of said Travis County tract, the following three courses:

- 1) S 00 deg. 10' 58" W 13.21 ft. to a badly bent ½ inch iron pipe found at a point of curvature;
- 2) 239.74 ft. along the arc of a curve to the right, having a radius of 686.80 ft., and chord bearing S 10 deg. 10' 58" W 238.52 ft. to a ½ inch iron pipe found at a point of tangency;

PAGE 2 OF 2
5.59 ACRES

3) S 20 deg. 05' 33" W 84.25 ft. to a ½ inch iron rod found at the northeast corner of that certain tract conveyed to Alex Calderon by deed recorded in Volume 3455 Page 1908 of the Deed Records of Travis County, Texas, and being the southeast corner of this tract, and from which a ½ inch iron pipe found at the southeast corner of said Calderon tract bears S 20 deg. 11' 44" W 260.27 ft.;

THENCE continuing across said (44.61Acre) tract with the north line of said Calderon tract, N 74 deg. 28' 22" W 606.49 ft. to a ½ inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the west line of said (44.61 Acre) tract, at the northwest corner of said Calderon tract, and being the southwest corner of this tract, and from which a ½ inch iron pipe found at an angle point of said (44.61 Acre) tract, bears S 08 deg. 30' 00" W 327.82 ft. (direct tie);

THENCE with the west line of said (44.61 Acre) tract, N 08 deg. 30' 00" E 383.59 ft. to the Place of Beginning, containing 5.59 Acres of land.

SURVEYED: November 5, 2004
BY:



Holt Carson
Registered Professional Land Surveyor No. 5166



see survey plat B726112

EXHIBIT "B"

PERMITTED ENCUMBRANCES

1. Easement granted to the City of Austin as described and located by instrument recorded in Volume 3346, Page 1709 of the Deed Records of Travis County, Texas.
2. Sanitary sewer and temporary spoil easement(s) as set forth in Final Judgment recorded in Volume 9546, Page 544 of the Deed Records of Travis County, Texas.
3. Wire fence(s) not on line along the north and south property lines as shown on survey dated November 5, 2004, prepared by Holt Carson, Registered Professional Land Surveyor No. 5166 ("the Survey").
4. Apparent easement evidenced by the location of overhead utility line(s) and guy wire(s) outside of a dedicated easement as shown on the Survey.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2004 Dec 30 03:06 PM 2004241448

EVANSK \$30.75

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS