

TCEQ MSW Permit No. 783  
TCEQ Docket No. 2007-1792-MSW

2008 DEC 19 AM 11:40

APPLICATION BY	§	BEFORE THE	CHIEF CLERKS OFFICE
ZAPATA COUNTY	§	TEXAS COMMISSION	
FOR AMENDMENT OF	§	ON	
MSW PERMIT NO. 783	§	ENVIRONMENTAL QUALITY	

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this response to hearing requests on the application by Zapata County (Applicant) for an amendment to Municipal Solid Waste (MSW) Permit No. 783. The Executive Director received timely hearing requests from the following: Victor Gonzalez, Jr.; Monica Jacobs and Holly Vandrovec, attorneys with Kelly Hart & Hallman LLP, on behalf of Victor Gonzalez, Jr.; Brenda Jaicyzoski; Luis A. Lozano; Gerardo Paredes; San Juanita Rocha; Jose and Maria Valdez; Orlando and Erika Villarreal; and Paul and Aminta Yeasley. Gerardo Paredes withdrew his hearing request by a letter received by the Chief Clerk on December 10, 2008.

The Executive Director has attached the following items to this response:

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|--------------|---|
| Attachment A | Draft Permit  |
| Attachment B | Technical Summary and Executive Summary                       |
| Attachment C | Compliance History of the Applicant                           |
| Attachment D | Executive Director's Amended Response to Public Comment       |
| Attachment E | GIS Map depicting location of facility and hearing requestors |

The Executive Director has provided a copy of this response to the hearing requestors and representatives.

**I. Description of Facility, Application Request, and Procedural Background**

The existing San Ygnacio landfill facility is located in Zapata County off an unnamed gravel road, approximately 0.4 miles northeast of US Highway 83, two miles south of the City of San Ygnacio, an unincorporated community. The facility is not within the corporate limits or extraterritorial jurisdiction of any city. It is authorized to accept municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, recreational and

industrial activities. These wastes include garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, yard waste, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, and certain special wastes. The maximum waste acceptance rate that is permitted is 20 tons per day for the Type I area of the site and 20 tons per day for the Type IV area.

Zapata County has applied for a permit amendment to authorize an expansion of the existing San Ygnacio landfill, a Type I Arid Exempt municipal solid waste facility. The permit amendment application requests a lateral expansion of 20 acres, in addition to the existing 10 acre site, resulting in a total disposal footprint of 30 acres. The permit amendment application also requests an increase in the maximum permitted elevation of 9.5 feet, which would bring the final elevation of waste fill and soil cover material to 420-435 feet above mean sea level.

On August 22, 2006, TCEQ received Zapata County's application for an amendment to Municipal Solid Waste Permit No. 783. On October 6, 2006, the Executive Director declared the application administratively complete. On October 19, 2006, the Notice of Receipt of Application and Intent to Obtain a Type I Municipal Solid Waste Permit for this application was published in English in *The Zapata County News*, the newspaper of largest circulation in the county in which the facility that is the subject of the application for amendment is proposed. On November 30, 2006, the Notice of Receipt of Application and Intent to Obtain a Type I Municipal Solid Waste Permit for this application was published in Spanish in *The Zapata County News*. On May 30, 2007, the Executive Director completed the technical review of the application and prepared a draft permit. On July 5, 2007, the Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit was published in both English and Spanish in *The Zapata County News*. On August 6, 2007, the public comment period ended. The TCEQ Chief Clerk's Office mailed the Executive Director's Response to Comments on October 4, 2007.

Requests for a Contested Case Hearing on this application were set to be heard by the Commission at its February 27, 2008 agenda. However, the Executive Director determined that the text of the published notice of the application did not adequately describe the application. Therefore, the item was remanded to the Executive Director in order to publish revised notice. On March 27, 2008, a Revised Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit was published in both English and Spanish in *The Zapata County News*. The comment period, which was re-opened due to the revision of the notice, closed on April 28, 2008. The TCEQ Chief Clerk's Office mailed the Executive Director's Amended Response to Comments on June 26, 2008. The time period for requesting a contested case hearing closed on July 28, 2008.

Because this application was declared administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted under House Bill 801.<sup>1</sup>

## II. Evaluation of Hearing Requests

The regulations governing requests for contested case hearings are found at Title 30, Texas Administrative Code, Chapter 55. Sections 55.201(c) and (d) require that a request for contested case hearing:

- 1) be in writing;
- 2) be timely filed;
- 3) ask for a contested case hearing;
- 4) provide the name, address, daytime telephone number, and fax number, if possible, of the person who files the request;
- 5) provide any other information specified in the public notice of the application; and
- 6) raise disputed issues.

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

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

30 Tex. Admin. Code § 55.203(c) lists factors to consider in determining whether a person is an affected person, including the following:

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

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<sup>1</sup> Tex. H.B. 801, 76th Leg., R.S. (1999).

- 5) the 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.

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

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

### **III. Analysis of Hearing Requests**

#### **A. Were the requests for a contested case hearing in this matter timely and in proper form?**

Victor Gonzalez, Jr. submitted a timely written hearing request stating that he owns the property immediately adjacent to the facility to its south and west. Mr. Gonzalez's property is depicted on the attached map.

The following persons submitted a timely written hearing request and provided a San Ygnacio, Texas address: Brenda Jaicyzski, San Juanita Rocha, Jorge and Maria Valdez, Orlando and Erika Villarreal, and Paul and Aminta Yeasley. Their addresses are depicted on the attached map and numbered 0 through 4.

Luis A. Lozano submitted a timely written hearing request and provided a post office box address, but not a physical property address. Thus, Mr. Lozano's location is not represented on the attached map.

Gerardo Paredes submitted a timely written hearing request and provided a San Ygnacio, Texas address. However, he withdrew his hearing request in a letter filed with the TCEQ Chief Clerk on December 10, 2008.

B. Are those who requested a contested case hearing in this matter affected persons?

The interests asserted by Victor Gonzalez, Jr. include issues that are protected by the Texas Solid Waste Disposal Act and TCEQ's municipal solid waste rules. A reasonable relationship exists between the interests of Mr. Gonzalez and the facility because the facility is adjacent his property. Thus, the Executive Director concludes that Mr. Gonzalez qualifies as an affected person.

Brenda Jaicyzoski, San Juanita Rocha, Jorge and Maria Valdez, Orlando and Erika Villarreal, and Paul and Aminta Yeasley provided physical addresses which are depicted as points 0 through 4 on the attached map. Brenda Jaicyzoski and Orlando and Erika Villarreal provided addresses within 1 mile of the outer edge of the proposed expanded landfill. The others lie within 1.5 miles. Each of these requestors states in his or her request that the facility is visible from his or her property. Finally, each asserts interests that are protected by the Texas Solid Waste Disposal Act and TCEQ's municipal solid waste rules. Because of their proximity to the facility, a reasonable relationship exists between their interests and the facility. Therefore, the Executive Director recommends that the commission find that Brenda Jaicyzoski, San Juanita Rocha, Jorge and Maria Valdez, Orlando and Erika Villarreal, and Paul and Aminta Yeasley qualify under the rules as affected persons.

Finally, a hearing request was filed by Mr. Luis A. Lozano. Mr. Lozano provided a P.O. Box number but did not provide a physical address. Therefore, Mr. Lozano's location does not appear on the attached map. Without knowing Mr. Lozano's location in relation to the proposed expanded facility, the ED is unable to determine whether it is likely that he will be impacted differently than any other member of the general public or if there is a likely impact of the regulated activity on his interests such as on his health and safety or use of his property. However, Mr. Lozano did indicate in his request letter that he owns property within 100 yards of the facility and that the facility is visible from his property. In his request, Mr. Lozano asserted issues that are protected by the Texas Solid Waste Disposal Act and TCEQ's municipal solid waste rules. Without more information regarding Mr. Lozano's exact location, the Executive Director is unable to determine whether Mr. Lozano meets the criteria for affected person status. Therefore, the Executive Director recommends that Mr. Lozano's hearing request be denied.

C. Which issues raised by hearing requestors should be referred to the State Office of Administrative Hearings for a contested case hearing?

If the commission determines any of the hearing requests in this matter are timely and in proper form, and some or all of the hearing requestors are affected persons, the commission must apply the three-part test discussed in Section II to the issues raised in this matter to determine if

any of the issues should be referred to SOAH for a contested case hearing. The three-part test asks:

1. Whether the issues involve disputed questions of fact;
2. Whether the issues were raised during the public comment period; and
3. Whether the issues are relevant and material to the decision on the permit application.

Protestants raised the following issues in comments and hearing requests filed on this application:

1. Considering the Applicant's compliance history, should the proposed amendment be granted?
2. Is the site operating plan adequate to prevent migration of landfill debris and windblown litter?
3. Is the site operating plan adequate to prevent nuisance odors?
4. Is the visual screening adequate, considering the proposed expansion in size of the facility?
5. Is the proposed landfill expansion protective of human health?
6. Is the proposed landfill expansion protective of the environment?
7. Is the proposed site operating plan adequate to control rodents and other disease vectors?
8. Does the application contain all required information regarding transportation and site access?
9. Is the site operating plan sufficiently protective of human health and safety with regard to transportation and site access?
10. Will the proposed expanded landfill control dust adequately, specifically as it relates to increased traffic and activity at the site?
11. Will the applicant be able to exclude prohibited wastes from the facility and properly manage special wastes?
12. Are the plans for gas monitoring and remediation sufficiently protective?
13. Will the applicant maintain sufficiently protective landfill cover?
14. Are the closure and post-closure plans adequately protective of human health and the environment?
15. Is the amount of financial assurance adequate to protect human health and the environment during closure and post-closure care of the facility?
16. Will the applicant be able to maintain qualified personnel for each category of key personnel in a manner sufficiently protective of human health and the environment?
17. Will the applicant be able to maintain adequate fire protection for the expanded or

- existing area?
18. Does the application accurately characterize the groundwater conditions at and in the vicinity of the site?
  19. Will the applicant be able to operate the landfill in a manner that is protective of groundwater?
  20. Will the applicant be able to operate the landfill in a manner that protects human health and the environment from runoff from the landfill?
  21. Is the applicant able to operate and maintain the landfill in a manner sufficiently protective of human health and the environment? Specifically, the hearing requestor is concerned that that the facility has been disposing of waste in excess of originally permitted amounts under a Temporary Overfill Authorization issued in March 2006, and posits that this shows inadequate preparation for increased disposal from Zapata County.
  22. Did Victor Gonzalez, Jr. receive adequate notice of the amendment application?
  23. Does the proposed landfill expansion violate an agreement between Mr. Gonzalez and Zapata County regarding use of the landfill site?
  24. Will the landfill expansion result in the Applicant exceeding the maximum amount of special waste that may be accepted under the rules?
  25. Will the proposed landfill expansion lead to negative economic impacts?

**1. Does the issue involve a disputed question of fact?**

The Executive Director finds that all of the issues listed above are disputed questions of fact except for the following:

22. Did Victor Gonzalez, Jr. receive adequate notice of the amendment application?

This issue does not meet the test because it is no longer disputed. The notice issue was raised prior to the publication of the revised notice. In response to Mr. Gonzalez's concern, the Executive Director caused revised notice to be published, which also re-opened the public comment period. The ED believes this action resolved this concern and therefore the issue is no longer disputed and should not be referred to SOAH.

23. Does the proposed landfill expansion violate an agreement between Mr. Gonzalez and Zapata County regarding use of the landfill site?

This issue does not meet the test because it is not a question of fact. It is a legal issue and therefore not appropriate for referral to SOAH. Furthermore, this issue is not

relevant and material to the decision on the application because the MSW rules do not require a review of private agreements in the permitting process.

**2. Were the issues raised during the public comment period?**

The public comment period is defined in 30 TAC § 55.152. The public comment period begins with the publication of the Notice of Receipt and Intent to Obtain a Municipal Solid Waste Permit. The date on which the public comment period ends varies under the rule. In this case, the public comment period began on October 19, 2006, and ended on April 28, 2008, 30 days after the last publication of the Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit. All of the issues listed above were raised during the public comment period.

**3. Are the issues relevant and material to the decision on the application?**

The ED finds that all of the issues listed above are relevant and material to the decision on the application, except for the following:

24. Will the landfill expansion result in the Applicant exceeding the maximum amount of special waste that may be accepted under the rules?

This issue is a disputed issue of fact, which was raised during the comment period, in a comment that was not withdrawn. However, this issue is not relevant and material to the decision on the application because the MSW rules do not set a maximum limit for special waste. Therefore, this issue should not be referred for hearing.

25. Will the proposed landfill expansion lead to negative economic impacts?

This issue is a disputed issue of fact, which was raised during the comment period, in a comment that was not withdrawn. However, this issue is not relevant and material to the decision on the application because the MSW rules do not require a review of economic impacts in the permitting process. Therefore, this issue should not be referred for hearing.

**IV. Duration of the Contested Case Hearing**

The Executive Director recommends that the duration for a contested case hearing on this matter, from preliminary hearing to the presentation of a proposal for decision before the Commission, be nine (9) months.

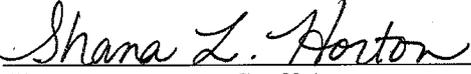
## V. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

1. Find that Victor Gonzalez, Jr., Brenda Jaicyzoski, San Juanita Rocha, Jorge and Maria Valdez, Orlando and Erika Villarreal, and Paul and Aminta Yeasley are affected persons under 30 Tex. Admin. Code § 55.203(a) and grant their hearing requests.
2. Deny the hearing request of Luis A. Lozano.
3. Refer the following issues to the State Office of Administrative Hearings for a proceeding of nine (9) months:
  1. Considering the Applicant's compliance history, should the proposed amendment be granted?
  2. Is the site operating plan adequate to prevent migration of landfill debris and windblown litter?
  3. Is the site operating plan adequate to prevent nuisance odors?
  4. Is the visual screening adequate considering the proposed expansion in size of the facility?
  5. Is the proposed landfill expansion protective of human health?
  6. Is the proposed landfill expansion protective of the environment?
  7. Is the proposed site operating plan adequate to control rodents and other disease vectors?
  8. Does the application contain all required information regarding transportation and site access?
  9. Is the site operating plan sufficiently protective of human health and safety with regard to transportation and site access?
  10. Will the proposed expanded landfill control dust adequately, specifically, as it relates to increased traffic and activity at the site?
  11. Will the applicant be able to exclude prohibited wastes from the facility and properly manage special wastes?
  12. Are the plans for gas monitoring and remediation sufficiently protective?
  13. Will the applicant maintain sufficiently protective landfill cover?
  14. Are the closure and post-closure plans adequately protective of human health and the environment?
  15. Is the amount of financial assurance adequate to protect human health and the

- environment during closure and post-closure care of the facility?
16. Will the applicant be able to maintain qualified personnel for each category of key personnel in a manner sufficiently protective of human health and the environment?
  17. Will the applicant be able to maintain adequate fire protection for the expanded or existing area?
  18. Does the application accurately characterize the groundwater conditions at and in the vicinity of the site?
  19. Will the applicant be able to operate the landfill in a manner that is protective of groundwater?
  20. Will the applicant be able to operate the landfill in a manner that protects human health and the environment from runoff from the landfill?
  21. Is the applicant able to operate and maintain the landfill in a manner sufficiently protective of human health and the environment? Specifically, the hearing requestor is concerned that that the facility has been disposing of waste in excess of originally permitted amounts under a Temporary Overfill Authorization issued in March 2006, and posits that this demonstrates inadequate preparation for increased disposal from Zapata County.

Respectfully submitted,



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Shana L. Horton, Staff Attorney  
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Representing the Executive Director of the  
Texas Commission on Environmental Quality

**CERTIFICATE OF SERVICE**

I certify that on December 19, 2008, the original and eight copies of the Executive Director's Response to Hearing Requests for the application by Zapata County for amendment of MSW Permit No. 783 were filed with the Office of the Chief Clerk at the Texas Commission on Environmental Quality, and a complete copy was mailed to all persons on the mailing list, below.

  
Shana L. Horton

Mailing List

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CHIEF CLERKS OFFICE

2008 DEC 19 AM 11:41

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

# Attachment A



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

MSW Permit No.: 783A

Name of Permittee: Zapata County  
P.O. Box 99  
Zapata, Texas 78076

Property Owner: Zapata County

Facility Name: San Ygnacio Landfill

Classification of Site: Type I Arid Exempt Municipal Solid Waste Management Facility

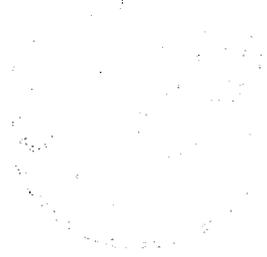
The permittee is authorized to store, process, and dispose of wastes in accordance with the limitations, requirements, and other conditions set forth herein. This amended permit is granted subject to the rules and orders of the Commission and laws of the State of Texas and it replaces any previously issued permit. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality. This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is completely filled or rendered unusable, whichever occurs first.

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

ISSUED DATE:

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For the Commission



UNITED STATES DEPARTMENT OF THE TREASURY

FEDERAL RESERVE BOARD  
WASHINGTON, D. C. 20551

MEMORANDUM FOR THE COMMISSION

SUBJECT: [Illegible]

DATE: [Illegible]

BY: [Illegible]

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Zapata County  
San Ygnacio Landfill  
MSW Permit No. 783A

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**PART NO. 1**

**I. Size and Location of Facility**

A. The San Ygnacio Landfill is located in Zapata County, Texas off an unnamed gravel road, approximately 0.4 miles northeast of US Highway 83; two miles south of the City of San Ygnacio.

B. The legal description is contained in Part I of the application found in Attachment A of this permit.

C. Coordinates and Elevation of Site Permanent Benchmark:

Latitude: N 27° 02' 15"

Longitude: W 99° 25' 14"

Elevation: 390 feet above mean sea level (ft-msl)

**II. Facilities and Operations Authorized**

A. Days and Hours of Operation

The operating hours for receipt of waste and for all landfill related operations at this municipal solid waste facility shall be any time between the hours of 6:00 a.m. to 6:00 p.m. on Monday through Thursday, 8:00 am to 4:00 pm on Friday, and 6:00 a.m. to 6:00 p.m. on Saturday and Sunday.

B. Wastes Authorized at This Facility

The permittee is authorized to dispose of municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, recreational and industrial activities, including garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, yard waste, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, and certain special wastes that are identified in Part IV found in Attachment A of this permit. The acceptance of the special wastes, indicated in Part IV found in Attachment A of this permit, is contingent upon such waste being handled in accordance with Title 30 Texas Administrative Code (30 TAC) Section (§) 330.171, and in accordance with the listed and described procedures in Part IV found in this permit, subject to the limitations and special provisions provided herein.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 TAC §330.15. Class 1 nonhazardous industrial solid waste; hazardous waste from any source, radioactive wastes; PCB wastes; infectious medical wastes, other prohibited wastes pursuant to 30 TAC §330.15; and waste not identified in Section II.B., found in attachment A of this permit, shall not be accepted at this facility.

D. Waste Acceptance Rate

The operator/owner will accept authorized wastes for the Type I area of the landfill at a maximum rate of 20 tons/day. Additionally, the facility may accept a maximum of 20 tons/day of authorized waste in the Type IV area of the site. The estimated life of the facility is approximately 30 years.

E. Waste Volume Available for Disposal

The total waste disposal capacity of the landfill is based upon the information contained in Section 1 of Part II, and Part III, found in attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type I Arid Exempt municipal solid waste landfill that has a disposal footprint of approximately 30 acres. The expanded permitted disposal capacity will be approximately 345,000 cubic yards for the Type I area of the landfill and 77,000 cubic yards for the Type IV area of the landfill for a total of approximately 422,000 cubic yards. The landfill will have a below grade excavation of approximately 20 to 30 feet at an elevation ranging from 380 ft-msl (at the deepest point of excavation) to 410 ft-msl and approximately 10 to 25 feet of above grade aerial fill at an approximate elevation range from 420 to 435 ft-msl (at top of final cover). The facility shall be built, operated, and/or maintained in accordance with the conditions of the permit, Parts I - IV of the permit amendment application, and commission regulations. The facility shall be managed in a manner to protect human health and the environment. All waste disposal activities subject to permitting are to be confined to the following facilities, which shall include disposal units, structures, appurtenances, or improvements: access roads, dikes, berms and temporary drainage channels, permanent drainage structures, detention ponds, landfill gas management system, contaminated water management system, final cover, and other improvements.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with the Texas Commission on Environmental Quality (TCEQ) permit amendment or modification rules, 30 TAC Chapters 305 and 330.

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

A. Facility design, construction, and operation and/or maintenance must comply with the provisions of this permit; Commission Rules, including 30 TAC §§330.5 (a)(1)(2), and (b), and applicable portions of 30 TAC Chapter 330; special provisions contained in this permit; Parts I through IV of the application found in the permit, and shall be managed in a manner to protect human health and the environment.

B. The entire waste management facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the point of compliance as defined in 30 TAC §330.3 and to prevent inundation or discharge from the areas surrounding the facility components. Each receiving, storage, processing, and disposal area shall have a containment system that will collect spills and incidental precipitation in such a manner as to:

1. Preclude the release of any contaminated runoff, spills, or precipitation;
2. Prevent washout of any waste by a 100-year storm; and
3. Prevent run-on into the disposal areas from off-site areas.

C. The site shall be designed and operated so as not to cause a violation of:

1. The requirements of §26.121 of the Texas Water Code;
2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements of §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
3. The requirements under §404 of the Federal Clean Water Act, as amended; and

4. Any requirement of an area wide or statewide water quality management plan that has been approved under §208 or §319 of the Federal Clean Water Act, as amended.
- D. Contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §330.305(g), §330.65(c), §330.177, and Part III, Attachment 15 found in the permit. Other methods may be considered for approval as a modification to this permit.
- E. Best management practices for temporary erosion and sedimentation control shall remain in place until sufficient vegetative cover has been established to control and mitigate erosion on areas having final cover. Vegetative cover will be monitored and maintained throughout the post-closure care period in accordance with Part III Attachment 13 found in Attachment A of this permit.
- F. Storm water runoff from the active portion of the landfill shall be managed in accordance with 30 TAC §§330.305(b) and (c), and 330.165(c) to (h), and as described in Part III found in Attachment A of this permit.
- G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. The permittee shall comply with 30 TAC §330.59(d) to (f) and as described in Part I of the permit application. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV found in Attachment A of this permit. All facility employees and other persons involved in facility operations shall obtain the appropriate level of operator certification as required by recent changes in the statute and applicable regulations.
- H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to safe aircraft operations will require prompt mitigation actions.

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

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 330, Subchapter K and 30 TAC Chapter 37.
- B. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of closure of the landfill in

accordance with 30 TAC §§330.503(a) and 330.503. The closure cost estimate of \$327,500 (2007 dollars) is based on estimates as described in Part III Attachments 8 and 12 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2007.

- C. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount for the entire landfill facility. The post-closure care cost estimate of \$147,300 (2007 dollars) is based on estimates as described in Part III Attachments 8 and 13 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2007.
- D. The owner and/or operator shall annually adjust closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §§330.503 and 330.507, as applicable.
- E. If the facility's closure and/or post-closure care plan is modified in accordance with 30 TAC §305.70, the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.503(a), 330.463(b)(3)(D), 330.503, and 330.507, as applicable. The amount of the financial assurance mechanism shall be adjusted within 45 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit, shall be initiated as a modification within 30 days after the effective date of the new regulation.

## V. Facility Closure

Closure of the facility shall commence:

- A. Upon completion of the disposal operations and the site is completely filled or rendered unusable in accordance with Part III Attachment 12 found in Attachment A of this permit;
- B. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director is authorized to issue emergency orders to the permittee in accordance with §§ 5.501 and 5.512 of the Water Code regarding this matter after

considering whether an emergency requiring immediate action to protect the public health and safety exists;

- C. Upon abandonment of the site;
- D. For failure to secure and maintain an adequate bond or other financial assurance as required; or
- E. Upon the permittee's notification to the TCEQ that the landfill will cease to accept waste and no longer operate at any time prior to the site being completely filled to capacity.

#### **VI. Site Completion and Closure**

The landfill shall be completed and closed in accordance with 30 TAC §330.451 and the applicable portions of 30 TAC §§330.457 through 330.465. Upon closure, the permittee shall submit to the Executive Director documentation of closure as set out in 30 TAC §330.457. Post-closure care and maintenance shall be conducted in accordance with Part III Attachment 13 found in Attachment A of this permit, for a period of 30 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.463(a).

#### **VII. Standard Permit Conditions**

- A. Parts I through IV, as described in 30 TAC §330.57(a) and (c), which comprise the Permit Application for MSW Permit No. 783A are hereby made a part of this permit as Part No. 2: Attachment A. The permittee shall maintain Parts I through IV and Part V, as described in 30 TAC §330.57(a) and (c), at the facility and make them available for inspection by TCEQ personnel. The contents of Part III of Attachment A of this permit shall be known as the "Approved Site Development Plan," in accordance with 30 TAC §330.63(a). The contents of Part IV of Attachment A of this permit shall be known as the "Approved Site Operating Plan," in accordance with 30 TAC Subchapter D §330.121 to §330.179.
- B. Part No. 3: Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- C. The permittee shall comply with all conditions found in Attachment A of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act, and is grounds for an enforcement action, revocation, or suspension.

- D. A pre-construction conference shall be held pursuant to 30 TAC §330.73(c) prior to beginning any construction within the permit boundary to ensure that all aspects found in Attachment A of this permit, construction activities, and inspections are met. Additional pre-construction conferences may be held prior to the opening of the facility.
- E. A pre-opening inspection shall be held pursuant to 30 TAC §330.73(e).
- F. The permittee shall monitor sediment accumulations in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain the design flow.
- G. The tracking of mud off-site onto any public right-of-way shall be minimized.
- H. In accordance with 30 TAC §330.19, the permittee shall record in the deed records of Zavala County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.19.
- I. Daily cover of the waste fill areas shall be performed with clean soil that has not been in contact with waste or with an alternate daily cover which has been approved in accordance with 30 TAC §§330.165(d) and 305.70. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior daily cover or which contains waste.
- J. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and speed bumps/mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- K. In complying with the requirements of 30 TAC §330.145, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 30 days after the permit has been issued.

- L. The permittee shall retain the right of entry onto the site until the end of the post-closure care period as required by 30 TAC §330.67(b).
- M. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the post-closure care period as required by §361.032 of the Texas Health and Safety Code.
- N. The provisions found in Attachment A of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- O. Regardless of the specific design contained in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the regulations, and as required by local, state, and federal laws or ordinances.
- P. If differences arise between these permit provisions (including the incorporated Parts I through IV of Attachment A of this permit) and the rules under 30 TAC Chapter 330, the permit provisions shall hold precedence.
- Q. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116.
- R. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the State of Texas TPDES requirements, as applicable.

### **VIII. Incorporated Regulatory Requirements**

- A. To the extent applicable, the requirements of 30 TAC Chapters 37, 281, 305, and 330 are adopted by reference and are hereby made provisions and conditions of this permit.
- B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.

### **IX. Special Provisions**

None.

**Attachment A**

Parts I through IV of the permit application effective with the date on the permit.

**PART NO. 3**

**Attachment B**

Minor amendments, corrections, and modifications may be issued for MSW Permit No. 783A.

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

# Attachment B

# TECHNICAL SUMMARY

of the

Zapata County/San Ygnacio Landfill

MSW Permit Amendment Application  
No. 783A

Type I Arid Exempt  
Municipal Solid Waste Facility  
Zapata County, Texas

Applicant:  
Zapata County

Date Prepared: March 2007

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

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

Name of Applicant: Zapata County  
P.O. Box 99  
Zapata, Texas 78076

Name of Facility: San Ygnacio Landfill

Contact Person: The Honorable Rosalva Guerra  
County Judge  
County of Zapata  
P.O. Box 99  
Zapata, Texas 78076  
(956) 765-9920

Consulting Engineer: Mr. Raul H. Garcia, P.E.  
Garcia & Wright Consulting Engineers, Inc.  
407 W. Rhapsody  
San Antonio, Texas 78216  
(210) 349-5253

Type of Facility: 30 acre Type I Arid Exempt Municipal Solid Waste Landfill Facility

1. **General.**

1.1. Purpose:

The County of Zapata has applied to the Texas Commission on Environmental Quality (TCEQ) for a major permit amendment to the existing MSW Permit 783. The application was received on August 22, 2006, and is required to address the new MSW rules, Title 30 of the Texas Administrative Code (30 TAC) Chapter 330, effective March 27, 2006. The application is assigned the number MSW Permit 783A and proposes to expand the facility laterally by adding 20 acres to the existing permitted boundary of 10 acres for a total of 30 acres, of which approximately 30 acres will be used for disposal. The final elevation of the waste fill and final cover material will be 435 feet (msl). The application was declared administratively complete on October 6, 2006 and is currently under technical review. The site will be authorized to accept the waste streams as listed below.

1.2. Wastes to be Accepted:

This applicant proposes to expand the existing Type I area and construct a separate Type IV area within the permitted boundary and accept wastes authorized for each of the Type I and Type IV areas of the landfill as defined in 30 TAC Section (§) 330.3 as municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional and recreational activities, including household garbage, rubbish, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than certain industrial solid waste. The facility will accept brush and construction-demolition waste. Special wastes addressed in the permit

application may be accepted and handled in accordance with 30 TAC §330.171. Nonhazardous Class 2 and Class 3 industrial solid waste may be accepted and handled in accordance with 30 TAC §330.173. The facility will not accept hazardous wastes; radioactive wastes; PCB wastes; nonhazardous Class 1 industrial wastes; infectious medical wastes, and other prohibited wastes pursuant to 30 TAC §330.15.

1.3. Waste Acceptance Rate:

The operator/owner will accept authorized wastes for the Type I area of the landfill at a maximum rate of 20 tons/day. Additionally, the facility may accept a maximum of 20 tons/day of authorized waste in the Type IV area of the site. The estimated life of the facility is approximately 30 years.

2. Location and Size.

2.1. Location:

The San Ygnacio Landfill is located on an unnamed gravel road, approximately 0.4 miles northeast of US Highway 83; two miles South of San Ygnacio, in Zapata County, Texas. Refer to the General Location Map, Attachment 1 to this Technical Summary.

2.2. Elevation and Coordinates of Permanent Benchmark:

Latitude:	N 27° 02' 15"
Longitude:	W 99° 25' 14"
Elevation:	390 feet above mean sea level (ft-msl)

2.3. Size:

The total area within the permit boundary under the proposed permit is approximately 30 acres.

3. Facility Design, Construction, and Operations.

3.1. Facilities Authorized:

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

3.1.1: The Type I Arid Exempt municipal solid waste landfill facility has a disposal footprint of approximately 30 acres. The proposed expanded permitted disposal capacity will be approximately 345,000 cubic yards for the Type I area of the landfill and 77,000 cubic yards for the Type IV area of the landfill for a total of approximately 422,000 cubic yards. The landfill will have a below grade excavation of approximately 20 to 30 feet at an elevation ranging from 380 ft-msl (at the deepest point of excavation) to 410 ft-msl and approximately 10 to 25 feet of above grade aerial fill at an approximate elevation

range from 420 to 435 ft-msl (at top of final cover). The facility shall be built, operated, and/or maintained in accordance with the conditions of the permit, Parts I - IV of the permit amendment application, and commission regulations. The facility shall be managed in a manner to protect human health and the environment.

- 3.1.2 The facility consists of a site entrance with appropriate security fencing, all-weather access to the site entrance, all-weather access road, scale house and scales, landfill office building, landfill gas monitoring system, and the solid waste disposal area. Structures for surface drainage and stormwater run-on/runoff control including a perimeter drainage system to convey stormwater runoff around the site, berms, ditches, detention ponds and associated appurtenant structures are also provided.

#### 4. Land Use.

- 4.1. The site is located in Zapata County near the City of San Ygnacio, Texas. The San Ygnacio landfill will be located outside of the incorporated limits of any city and is therefore not subject to any known city zoning ordinances. The surrounding land use within one mile radius of the facility is mainly agricultural.
- 4.2. There are approximately 11 residences and 6 commercial facilities within 1 mile of the facility. The nearest residence is approximately 1400 feet west-southwest of the facility; the nearest commercial facility is approximately 1800 feet south of the facility. There are no schools, licensed day care facilities, churches, cemeteries, hospitals, or historical sites within one mile of the landfill.

#### 5. Transportation and Access.

- 5.1. The primary access route to the site is US Highway 83 and the access road to the entrance of the landfill.
- 5.2. The applicant states that this area is a rural area with low traffic volumes. The Texas Department of Transportation (TxDOT) does not have traffic counts available for this area. A coordination letter from TxDOT indicates that roadway improvements are not required as a result of the expansion to the landfill facility.
- 5.3. The nearest public use airport is the Zapata County Airport, which is located 10 miles from the proposed site. A coordination letter from the FAA is included in Part II of the application.

#### 6. Surface Water Protection.

##### 6.1. Floodplain:

The applicant states that the site is not located in or adjacent to a flood zone as delineated in the FEMA Flood Hazard Boundary Map Community Panel 480687A.

6.2. Stormwater:

The applicant has provided design information for a detention pond with sufficient volume to contain the Post Development Runoff from the 100 year event. Channels have been designed based on 25 year flows using the Rational Method. The existing channel system is theoretically adequate to contain the 100 year event. The drainage for the expansion area is adequate for the 25 year event.

6.3 Contaminated Water:

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

7. Groundwater Protection.

7.1 Groundwater Protection:

This is a proposed Arid Exempt facility; therefore, no liner is required at this time.

7.2 Monitoring Wells

The facility is a proposed Arid Exempt facility; therefore, no groundwater monitoring system is required at this time.

8. Control of Methane.

Landfill gas migration will be monitored around the perimeter of the facility in accordance with the approved Landfill Gas Management Plan and 30 TAC §330.371, Subchapter I, regarding Landfill Gas Management.

9. Site Development and Operation.

The Site Development Plan (SDP), Part III, and Site Operating Plan (SOP), Part IV, are intended to provide guidance from the design engineer to the proposed facility, site management and operating personnel to facilitate implementation, development, and operation of the solid waste management facility. The SOP is to provide an operating guide for site management to maintain the facility in compliance with the engineering design and applicable regulatory requirements of the TCEQ. These documents were prepared using 30 TAC §330 regulations and will become part of the facility permit if the proposed landfill application is approved by the TCEQ.

10. Protection of Endangered Species.

The applicant contacted the US Fish and Wildlife Services (USFWS) and the Texas Parks and Wildlife Department (TPWD) regarding possible presence of threatened and endangered species in the immediate vicinity of the site. A biological assessment prepared by SWCA Environmental

Consultants and dated February 27, 2007 has been submitted to MSW Permits. The assessment states that threatened or endangered species were not observed within the permitted boundary of the site.

**11. Protection of Wetlands.**

Information provided indicates that there are no wetlands at the site location.

**12. Financial Assurance.**

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

**13. Attachments.**

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

<u>Attachment</u>	<u>Description</u>	<u>Location in the Application/Drawing Number</u>
1.	General Location Map	Exhibit I-B
2.	Location Map	Exhibit II-2
3.	Land Use Map	Exhibit II-3
4.	Facility Layout Plan	Exhibit II-7
5.	Excavation Plan	Attachment 7B.1
6.	Final Contour Plan	Attachment 7A.1

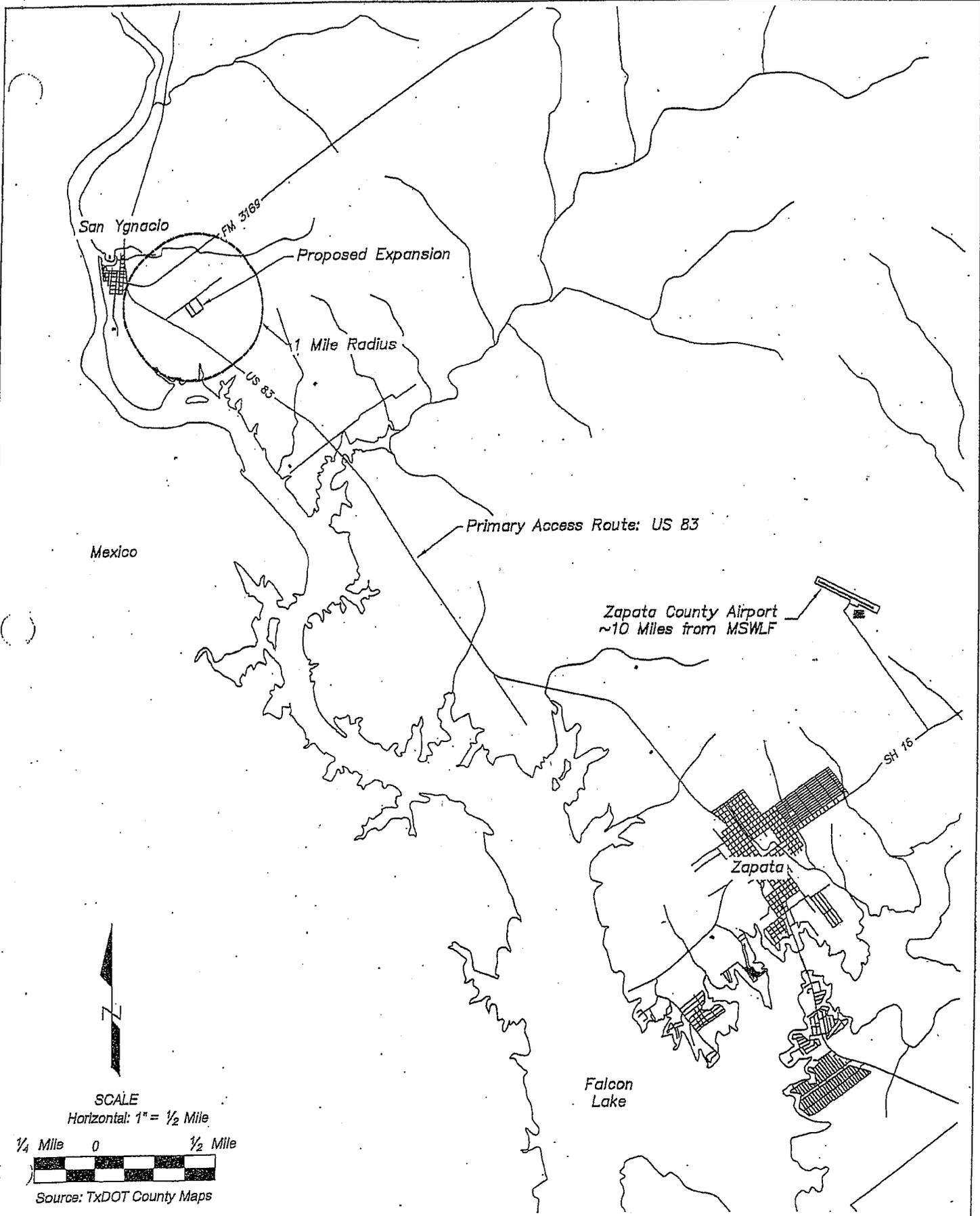
**14. ADDITIONAL INFORMATION.**

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

Mr. Mario A. Perez  
MSW Permits Section, MC 124  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711  
(512) 239-6681

Technical Summary  
MSW Permit Amendment Application No. 783A-AE  
Zapata County  
Page 7

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



SCALE  
Horizontal: 1" = 1/2 Mile



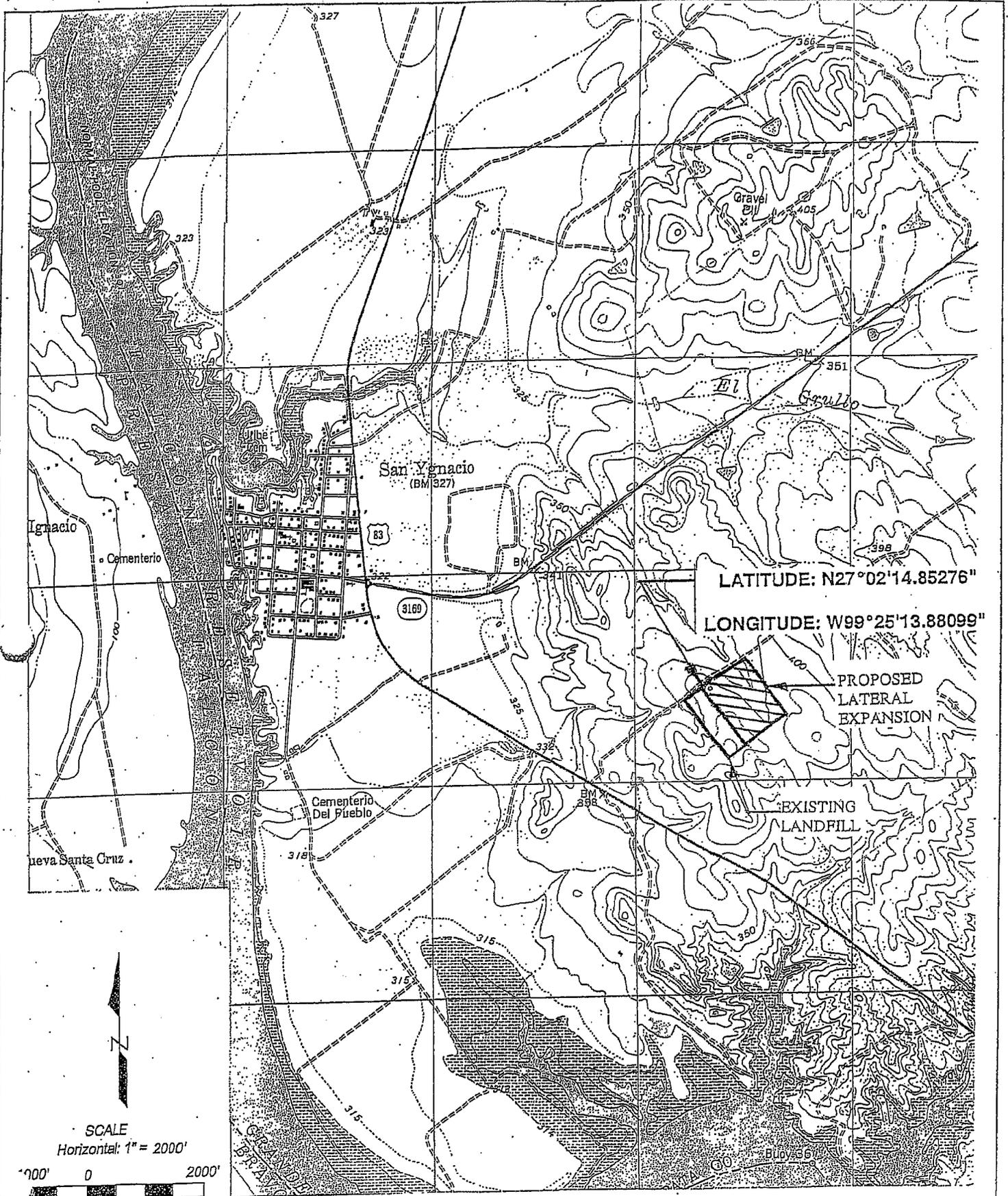
Source: TxDOT County Maps

Date	No.	Description
	3	
	2	
3/07	1	1st Technical Notice of Deficiency

Garcia & Wright  
Consulting Engineers, Inc.  
407 W. Rhapsody  
San Antonio, Texas 78216

**General Location Map**  
Permit Amendment for Lateral Expansion  
San Ygnacio Type I MSW Landfill, Permit No. 783A-Arid Exempt

I-B  
EXHIBIT

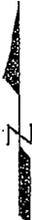


LATITUDE: N27°02'14.85276"

LONGITUDE: W99°25'13.88099"

PROPOSED  
LATERAL  
EXPANSION

EXISTING  
LANDFILL



SCALE  
Horizontal: 1" = 2000'



Source: USGS San Ygnacio 7.5' Quadrangle

3/07	1	1st Technical Notice of Deficiency
Date	No.	Description

Garcia & Wright  
Consulting Engineers, Inc.  
407 W. Rhapsody  
San Antonio, Texas 78216  
210.340.7000

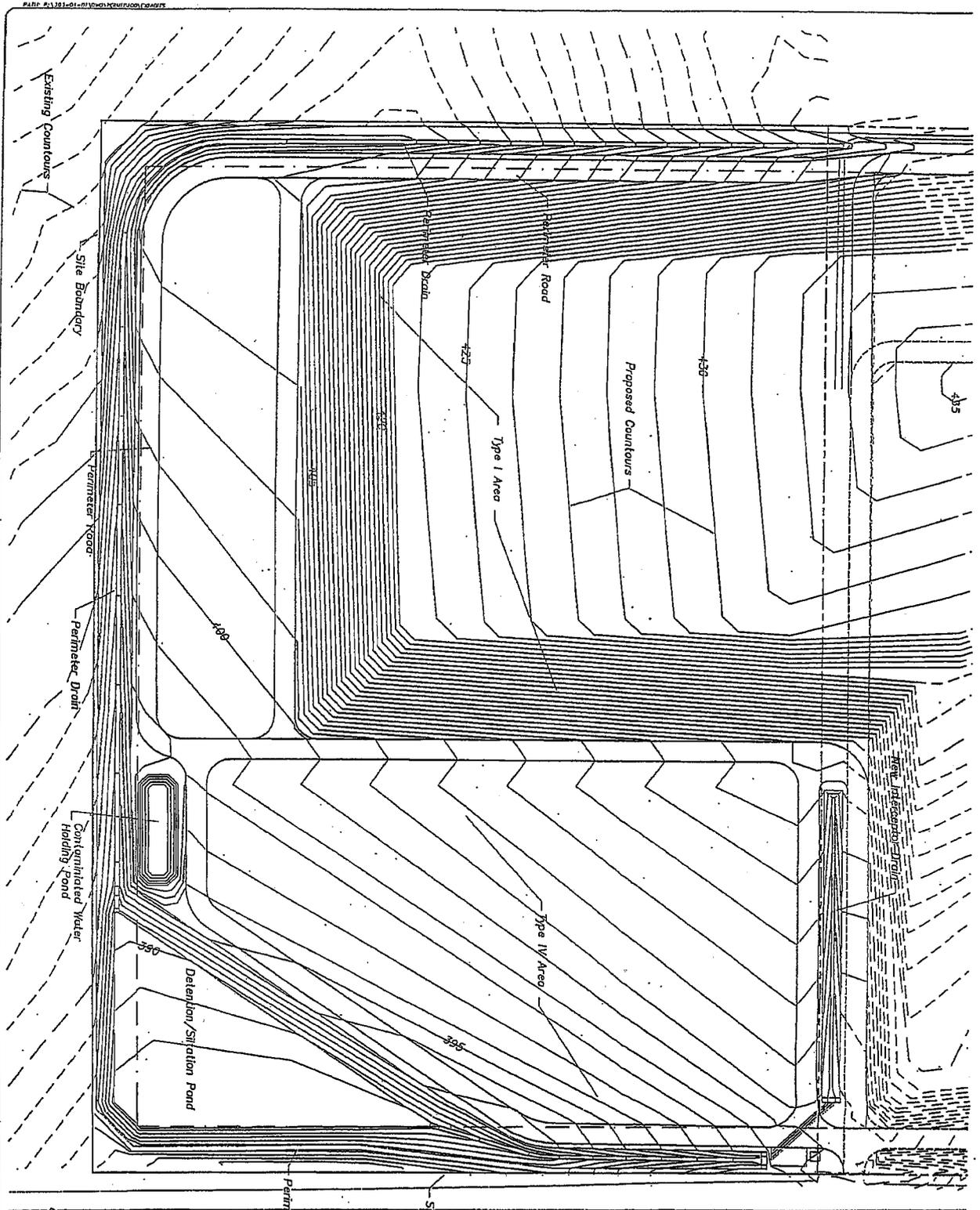
Location Map

Permit Amendment for Lateral Expansion  
San Ygnacio Type I MSW Landfill, Permit No. 783A-Ard Exempt









DATE: 3/20/2007  
 DESIGNED:  
 CHECKED:  
 APPROVED:  
 FILE: 701 (Final)

SCALE  
 Horizontal: 1" = 100'  
 Vertical: 1" = 10'  
 All Elevations are Mean Sea Level

100'  
 0  
 50'

5/19/07  
 7A1  
 Professional Engineer

Permit Amendment for Lateral Expansion  
 Sany Ygnacio Type I MSW Landfill, Permit No. 783A-Arid Exempt  
 Zapata County, Texas  
 Final Contours

**Garcia & Wright**  
 Consulting Engineers, Inc.  
 407 W. Rhapsody  
 San Antonio, Texas 78216  
 Tel: 210.349.5253  
 Fax: 210.349.0718  
 www.garciaandwright.com

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3/20/07 2:18 PM  
 1:1 Range File Book - AutoCAD 2007

Attachment B

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

May 23, 2007

DESCRIPTION OF APPLICATION

Applicant: Zapata County

San Ygnacio Landfill

Municipal Solid Waste (MSW) Permit Application No. 783A

Type: Type I Arid Exempt Municipal Solid Waste Landfill

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The Executive Director of the Texas Commission on Environmental Quality has made the preliminary decision that this proposed MSW Permit No. 783A, to Zapata County, if issued, meets all statutory and regulatory requirements.

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

## EXECUTIVE SUMMARY

May 2007

### DESCRIPTION OF APPLICATION

Applicant: Zapata County  
MSW Permit Application No. 783A

Type: Type I Arid Exempt Municipal Solid Waste Landfill Facility

Request: To issue a municipal solid waste permit, No. 783A, for a new municipal solid waste Type I Arid Exempt landfill facility, and to operate this facility in accordance with the application.

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

### STAFF RECOMMENDATION

Issue permit as requested.

### TECHNICAL INFORMATION

General: The facility is located on an unnamed gravel road, approximately 0.4 miles northeast of US Highway 83; two miles South of San Ygnacio, in Zapata County, Texas. There are no hospitals, schools, churches, recreational areas, cemeteries, or springs located within one mile of the facility. The majority of the land use immediately adjacent to the site is agricultural. The operator/owner will accept authorized wastes for the Type I area of the landfill at a maximum rate of 20 tons/day. Additionally, the facility may accept a maximum of 20 tons/day of authorized waste in the Type IV area of the site. The estimated life of the facility is approximately 30 years. The permit application meets the requirements of the Commission's rules and provides the proper safeguards to protect the public health and safety, and the environment.

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

### COMPLIANCE HISTORY

See attached.

CONTACT Mario A. Perez, Sr., (512) 239-6681  
MSW Permits Section

# Attachment C

## Compliance History

Customer/Respondent/Owner-Operator:	CN600334429 Zapata County	Classification: AVERAGE	Rating: 6.99
Regulated Entity:	RN102327574 SAN YGNACIO MSW LANDFILL	Classification: AVERAGE	Site Rating: 1.83
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT		783
	MUNICIPAL SOLID WASTE DISPOSAL PERMIT		783A
	MUNICIPAL SOLID WASTE DISPOSAL PERMIT		783AB
Location:	350 YARDS E OF US HIGHWAY 83 2 MILES SE OF SAN YGNACIO CITY LIMITS 2 MILES SE OF SA		Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	May 22, 2007		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	May 22, 2002 to May 22, 2007		

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

Name: SAIDAT ILO Phone: 512-239-6605

### Site Compliance History Components

- |  |               |
|--|---------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No            |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | Yes           |
| 3. If Yes, who is the current owner?   | N/A           |
| 4. If Yes, who was/were the prior owner(s)?  | Uribe Pedro P |
| 5. When did the change(s) in ownership occur?  | 02/11/2003    |

#### Components (Multimedia) for the Site :

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

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |   |            |          |
|---|------------|----------|
| 1 | 02/07/2003 | (24059)  |
| 2 | 01/30/2004 | (261359) |
| 3 | 04/29/2004 | (270633) |
| 4 | 03/29/2005 | (349538) |
| 5 | 02/21/2006 | (452757) |
| 6 | 09/20/2006 | (418406) |
| 7 | 10/27/2006 | (513308) |

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

- |              |  |          |                          |
|--------------|--|----------|--------------------------|
| Date:        | 01/29/2004   | (261359) |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 330, SubChapter F 330.132   |          |                          |
| Description: | Failure to conduct proper compaction.  |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 330, SubChapter F 330.133(a)  |          |                          |
| Description: | Failure to apply daily cover.  |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 330, SubChapter F 330.133(g)  |          |                          |
| Description: | Failure to keep a cover log according to 30 TAC 330.133(g).                              |          |                          |
| Date:        | 03/25/2005   | (349538) |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 330, SubChapter F 330.120[G]  |          |                          |
| Description: | Failure to collect the windblown material along the fence lines and throughout the site. |          |                          |
| Self Report? | NO   |          | Classification: Moderate |

Citation: 30 TAC Chapter 330, SubChapter.F 330.111  
Description: Failure to conduct municipal solid waste operations according to the site operating plan.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# Attachment D

Proposed Amendment to TCEQ MSW Permit No. 783

2008 JUN 19 PM 4:09

Application by	§	Before the	CHIEF CLERKS OFFICE
ZAPATA COUNTY	§		TEXAS COMMISSION
for amendment to	§		ON
TCEQ MSW	§		ENVIRONMENTAL
Permit No. 783	§		QUALITY

**EXECUTIVE DIRECTOR'S AMENDED RESPONSE TO PUBLIC COMMENT**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ) files this Amended Response to Public Comment on the application by Zapata County ("Applicant" or "the applicant"), for an amendment to TCEQ Municipal Solid Waste (MSW) Permit Number 783 and on the Executive Director's preliminary decision on the application.

Before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments.<sup>1</sup> TCEQ'S Office of the Chief Clerk timely received comment letters from Victor Gonzales, Jr., PE, RPLS and Monica Jacobs, Attorney with the firm of Kelly, Hart, & Hallman, P.C., on behalf of client Victor Gonzales, Jr.<sup>2</sup> This response to public comment addresses all timely public comments received, whether or not withdrawn.

If you would like more information about this application or the permitting process, please call TCEQ's Office of Public Assistance at (800) 687-4040. General information about TCEQ can be found on our Web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

1 30 TEX. ADMIN. CODE § 55.156 (2007).

2 For clarity, comments directly from Mr. Gonzalez and those made by his attorney on his behalf will be attributed to Mr. Gonzalez throughout this Response.

## I. Description of Facility

Zapata County's San Ygnacio Landfill facility is located in Zapata County, Texas off an unnamed gravel road, approximately 0.4 miles northeast of US Highway 83, two miles south of the City of San Ygnacio. Elevation and Coordinates of Current Permanent Benchmark: Latitude: 27° 02' 15" N, Longitude: 99° 25' 14" W, Elevation: 390 feet above mean sea level (msl). The total area within the permit boundary is approximately 30 acres. The facility consists of a site entrance with a lockable gate and an 8-foot high chain link fence along the permit boundary, a paved entrance road from State Highway 83, all-weather access roads, a gatehouse, scales, a maintenance building, an office building, soil stockpiles for waste cover, crushed stone stockpiles for access road repairs, and the Type I and Type IV solid waste disposal areas. Structures for surface drainage and stormwater run-on/runoff controls include a perimeter drainage system to convey stormwater runoff around the site, berms, ditches, a detention pond, and associated drainage structures.

This facility is authorized to accept municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, recreational and industrial activities. These wastes include garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, yard waste, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, and certain special wastes.

The current application, MSW Permit Amendment Application No. 783-A (application), requests an amendment to the existing permit to expand the landfill vertically and laterally. It requests the expanded landfill to have a below-grade excavation of approximately 20 to 30 feet to an elevation of 380 feet above mean seal level (msl) with continuous area filling with waste, and above-grade aerial fill of approximately 10 to 25 feet, to an elevation of 420 to 435 feet above msl. The proposed lateral expansion will add 20 acres to the existing permitted boundary of 10 acres for a total of 30 acres. The expansion would result in a total disposal capacity of approximately 422,000 cubic yards. The permit amendment application was prepared and submitted in accordance with Title 30, Texas Administrative Code, Section 305.62.

## II. Procedural History

On August 22, 2006, TCEQ received this application for an amendment to Municipal Solid Waste Permit No. 783. On October 6, 2006, the Executive Director declared the application administratively complete. On October 19, 2006, the Notice of Receipt of Application and Intent to Obtain a Type I Municipal Solid Waste Permit for this application was published in English in *The Zapata County News*, the newspaper of largest circulation in the county in which the facility that is the subject of the application for amendment is proposed. On November 30, 2006, the Notice of Receipt of Application and Intent to Obtain a Type I Municipal Solid Waste Permit for this application was published in Spanish in *The Zapata County News*.

On May 30, 2007, the Executive Director completed the technical review of the application and prepared a draft permit. On July 5, 2007, the Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit was published in both English and Spanish in *The Zapata County News*. On March 27, 2008, a Revised Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit was published in both English and Spanish in *The Zapata County News*.

On April 28, 2008, the public comment period ended.

Because this application was declared administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted under House Bill 801.<sup>3</sup>

## III. Rules, Law, and Records

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

Texas statutes

<http://www.state.tx.us>

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Tex. H.B. 801, 76th Leg., R.S. (1999).

TCEQ rules, codified in  
Title 30, Texas Administrative Code

[www.tceq.state.tx.us](http://www.tceq.state.tx.us)  
and  
[www.sos.state.tx.us/tac](http://www.sos.state.tx.us/tac)

Secretary of State

[www.sos.state.tx.us](http://www.sos.state.tx.us)

Federal statutes and rules

<http://www.epa.gov>

The administratively complete application is available for viewing and copying at the TCEQ's Laredo Regional Office at 707 East Calton Road, Suite 304. The application has also been available for review and copying at the Zapata County Courthouse in Zapata, Texas since the application was first submitted to the TCEQ, and the technical summary and draft permit have also been available at that location since publication of the Notice of Application and Preliminary Decision.

Additional TCEQ records on this application are available at the TCEQ Central File Room (Building E) and in the MSW Permits Section (Building F), 12100 Park 35 Circle, Austin, Texas 78753.

#### **IV. Comments and Responses**

##### **COMMENT 1**

Mr. Gonzalez commented that the amendment proposed would destroy his planned community, and that he would not be able to develop his property as he has planned, causing him and his family great financial loss.

##### **RESPONSE 1**

The Texas Solid Waste Disposal Act (TSWDA), Chapter 361 of the Texas Health & Safety Code, specifies criteria related to the health and safety of humans and the environment that the commission is required or authorized to consider when determining whether to issue a landfill permit. The TSWDA does not allow the commission to consider economic or financial impacts on neighboring landowners when making its decision.

## COMMENT 2

Mr. Gonzalez commented that Zapata County has failed on several occasions in the operations of the landfill, as reflected by TCEQ records, and that it is run very poorly. He further commented that the Applicant's compliance history should be fully explored at a public hearing. He also expressed concern that the Applicant's prior violations of TCEQ rules show that it is unable to maintain the landfill in a manner that is protective of human health and the environment. Finally, Mr. Gonzalez expressed concern with the fact that the Applicant had to apply to the TCEQ for a Temporary Overfill Authorization in March of 2006 and has been accepting waste in excess of originally permitted amounts since that time.

## RESPONSE 2

The TCEQ's MSW permit application review process requires that a compliance history of the owner and the operator of the landfill be searched for violations and compiled. Under 30 Tex. Admin. Code Section 60.1(b), the compliance history period included in the review of a permit application is comprised of the five years prior to the date the permit application is received by the Executive Director. The compliance history prepared for this permit application includes six violations within the five-year compliance period, all of which were resolved to the agency's satisfaction.

The compliance history for the application will be forwarded with the draft permit and other applicable documents to either the Executive Director, in the case of an uncontested application, or to the commissioners, in the case of a contested application, and may be taken into account in the decision whether to issue the amended permit. Compliance history information may be also taken into account if the application comes under the jurisdiction of the State Office of Administrative Hearings. Questions or comments regarding actions taken by the TCEQ Laredo Regional Office should be addressed to Ms. Rose Luna-Pirtle, Air/Water/Waste Program Manager, TCEQ Region 16 Office, 707 East Calton Rd., Suite 304, Laredo, Texas 78041-3887.

### COMMENT 3

Mr. Gonzalez expressed concern that trash, debris and papers flying over the containment fence onto his property create unhealthy, unsafe, and unsightly conditions, and that this problem would be exacerbated by the proposed landfill expansion.

### RESPONSE 3

During an investigation of the facility conducted on February 3, 2005, a TCEQ investigator noted a violation for failure to control windblown litter. This violation was resolved by collection and proper disposal of the windblown waste and instruction given to the site operator regarding preventing waste from migrating from the waste disposal face. There have been no violations regarding windblown waste in the three subsequent investigations that have been conducted by the TCEQ.

30 TAC Section 330.139 requires that the working face of the landfill be maintained and operated in a manner to control windblown solid waste, and further requires that windblown material and litter be collected and properly managed to control unhealthy, unsafe, or unsightly conditions. The rule also requires that litter scattered throughout the site, along fences and access roads, and at the gate be picked up once a day on the days the facility is in operation and properly managed, and that the site operating plan (SOP) must specify the means for complying with this requirement.

The SOP for the proposed expanded facility provides several methods for controlling windblown waste and litter, including proper unloading of waste, compaction, and cover procedures, use of portable litter control fences, proper orientation of the working face relative to the prevailing wind direction, and placement of screening berms. (See Part IV, Page SOP-18, Section 13 – Control of Windblown Solid Waste and Litter). Additionally, the SOP provides that personnel will be assigned to pick up and return windblown waste and litter to the active working face and perform other litter control measures, as necessary. The Executive Director determined that the application meets the rule requirements related to controlling windblown waste.

#### COMMENT 4

Mr. Gonzalez expressed concern that the Application does not provide sufficient measures to prevent nuisance odors. He comments that odors are currently emanating from the facility, and expressed concern that odor problems would be exacerbated by the proposed expansion.

#### RESPONSE 4

30 TAC Section 330.15(a)(2) requires that the facility be operated in a way that prevents the occurrence of nuisance odor conditions. 30 TAC Section 33.149 requires the SOP to have an odor management plan that addresses the sources of odors and includes general instructions to control odors or sources of odors. The SOP must also provide related procedures for compliance with storage requirements;<sup>4</sup> use of approved containers;<sup>5</sup> spill prevention and control;<sup>6</sup> ventilation and air pollution control.<sup>7</sup> If objectionable odors occur, the facility must initiate measures to alleviate the condition.

The facility's SOP, located in Part IV, pages SOP-1 through SOP-23 of the application, provides a plan for odor control in Section 18, "Air Criteria; Odor Management Plan," which provides for "waste management procedures, the placement of cover materials, the control of ponded water, and landfill gas control". The plan provides that:

- Wastes will be deposited at the working face, spread into layers that can be readily compacted, and covered with a minimum of six inches of soil or with an approved alternate daily cover material.
- Dead animals will be covered immediately upon placement into the working face with three feet of waste or two feet of soil.
- Waste that is identified as particularly odorous by the gate attendant or equipment operator will be buried immediately upon receipt in the working face with prompt compaction and covered with incoming waste and/or daily cover.

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<sup>4</sup> See 30 TAC § 330.209.

<sup>5</sup> See 30 TAC § 330.211.

<sup>6</sup> See 30 TAC § 330.227.

<sup>7</sup> See 30 TAC § 330.245.

The site operator is required to comply with the commission rules concerning burning and air pollution control and ensure compliance with the state implementation plan developed under the Federal Clean Air Act. Further, the draft permit requires that waste fill areas be covered daily with clean soil or an alternate approved daily cover (*see* Draft Permit, p. 10, Standard Permit Condition I).

The Executive Director has determined that this application complies with the rules designed to prevent nuisance odors.

There have been no violations regarding nuisance odors noted during periodic investigations of the facility conducted by TCEQ over the last five years, nor has the TCEQ received any complaints regarding odor. For information on TCEQ odor complaint investigation procedures, interested persons are encouraged to visit the following webpage:

[http://www.tceq.state.tx.us/compliance/complaints/protocols/odor\\_protodef.html](http://www.tceq.state.tx.us/compliance/complaints/protocols/odor_protodef.html).

#### **COMMENT 5**

Mr. Gonzalez expressed concern that the facility is visible from the majority of his property's viewing area, which is unpleasant and unsightly and diminishes his use and enjoyment of his property. He comments that the current visual screening mechanisms are inadequate, and expresses concern that visual screening issues will be exacerbated by the proposed expansion.

#### **RESPONSE 5**

30 TAC Section 330.175 requires visual screening of waste. Visibility is also minimized by rules requiring application of daily, intermediate, and final cover<sup>8</sup>; maintenance of buffer zones<sup>9</sup>; and use of landfill development patterns that will minimize exposure of the working face. Section 330.175 states that "Visual screening of deposited waste materials at a municipal solid waste facility must be provided by the owner or operator for the facility where the executive director determines that screening is necessary or as required by the permit." The applicant included the requirement from the rule in its application at Part IV SOP, Page SOP-23, Section 31: Visual Screening of Deposited Waste. The facility will also be required to utilize screening berms as indicated in Part IV SOP, Page SOP-18, Section 13: Control of Windblown Solid Waste and Litter. Under its current permit, the facility is not required to construct screening berms, therefore, if such berms are not an

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<sup>8</sup> See 30 Tex. Admin. Code Section 330.165

<sup>9</sup> See 30 Tex. Admin. Code Section 330.141(b)

existing feature of the site, the amended permit, if issued, would require construction of berms to control windblown waste. The Executive Director has determined that the application provides a sufficient plan to satisfy the rule requirement for visual screening of waste materials.

During the five-year period reviewed in connection with this application for expansion, no investigations resulted in violations regarding lack of visual screening, and no complaints as to visual screening were received by the TCEQ regional office.

#### **COMMENT 6**

Mr. Gonzalez commented that the County made a gift to him of a dedication of the landfill facility's land to be used as parkland, and that the current action is a breach of that agreement.

#### **RESPONSE 6**

30 Tex. Admin. Code Section 330.59(d) requires the applicant to submit with its application information related to property ownership, including the identifying reference of the current ownership record. Pages 9 to 10 of Part I of the application contain the Property Owner Affidavit, dated October 2, 2006; Applicant's Statement, dated August 4, 2006, and an Applicant's Certification, dated August 17, 2006, signed by the Honorable David Morales, the County Judge (at that time this permit application was submitted) for Zapata County indicating that Zapata County is the property owner for the 30 acres depicted and narrated in the Legal Description which is provided in Part I, Page I-C and signed by Mr. Raul Garcia, P.E., Registered Professional Surveyor. The Executive Director determined that the information submitted fulfills the requirements for property owner information under Section 330.59(d).

Further, under 30 Tex. Admin. Code 330.67:

It is the responsibility of an owner or operator to possess or acquire a sufficient interest in or right to the use of the surface estate of the property for which a permit is issued, including the access route. The granting of a permit does neither convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal,

state, or local laws or regulations outside the scope of the authority under which a permit is issued.

Any agreement between Zapata County and Mr. Gonzales is solely between those two parties and therefore does not bind the TCEQ. Such an agreement may not be considered by the commission in its decision whether to issue the amended permit, as it is outside the scope of municipal solid waste statutes and rules.

#### **COMMENT 7**

Mr. Gonzalez expressed concern that the application does not provide sufficient measures to control disease vectors such as rodents. Specifically, Mr. Gonzalez believes that a chain link fence is not a protective enough barrier.

#### **RESPONSE 7**

30 Tex. Admin. Code Section 330.151 requires the site operator to control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods when needed. The rule requires that the site operating plan (SOP) submitted with the application specify general control methods and performance-based frequencies.

The procedures for controlling on-site populations of disease vectors provided in Section 19 of Part IV of the application (the SOP) meet the requirements of 30 TAC §330.151. The procedures include minimizing the size of the working face, application of daily, intermediate and final cover, and professional pesticide application, if necessary, which should adequately control scavenging animals and vectors. Complaints or concerns regarding disease vectors at the site should be addressed to the TCEQ Region 16 office in writing or in person at 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, or by telephone at (956) 791-6611.

### COMMENT 8

Mr. Gonzalez commented that the application does not provide necessary information regarding transportation and site access. He expressed concern that without this information, human health and safety may be at risk.

Mr. Gonzalez commented that the information included in the Application regarding impact on traffic resulting from the landfill expansion is inaccurate.

Mr. Gonzalez commented that the Application does not demonstrate that the Applicant possesses adequate rights to use access roads to the facility.

### RESPONSE 8

Under 30 Tex. Admin. Code Section 330.61(i), the application must include data on the availability and adequacy of roads that the owner or operator will use to access the site, data on the volume of vehicular traffic within one mile of the facility during the expected life of the facility, and a projected volume of traffic expected to be generated by the facility within one mile. The site owner or operator must also include documentation showing coordination with the Texas Department of Transportation (TxDOT). 30 Tex. Admin. Code Section 330.67(a) provides that it is the responsibility of the owner or operator to acquire a sufficient interest in or right to use access roads to the facility.

The application includes information related to traffic and the adequacy of access roads and in Part II, Section 2.2. Coordination with TxDOT is demonstrated by the letter from TxDOT included as an attachment to Part II. Information provided in the application indicates that the primary entrance to the facility is from U.S. Highway 83, and that there is no existing TxDOT traffic study regarding this portion of the highway. The application states that the area is rural, with low traffic volumes and that the proposed facility expansion would not result in any significant increase in average daily trips. The letter from TxDOT, dated September 25, 2006, indicates that TxDOT will not require any upgrades to the existing roadways for site access, and further states that TxDOT is planning to upgrade the section of US 83 providing access to the facility by making it a four-lane

divided highway. The Executive Director's staff reviewed this information and determined that it adequately addresses transportation issues.

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

### **COMMENT 9**

Mr. Gonzalez expressed concerns regarding whether the Application provides adequate dust control measures, given additional traffic and activity that would result from the proposed landfill expansion.

### **RESPONSE 9**

30 Tex. Admin. Code Section 330.153(b) prohibits creation of a nuisance to surrounding areas from dust from on-site and other access roadways. Additionally, 30 Tex. Admin. Code Section 330.15(a)(2) generally prohibits the creation or maintenance of a nuisance, such as nuisance dust conditions.

Section 20 of the SOP provides that a water source and necessary equipment or other means of dust control approved by the TCEQ will be provided. Further, landfill haul roads and access roads will be maintained in a reasonably dust-free condition by periodic spraying from a water truck.

The Executive Director has determined that the application complies with all applicable requirements regarding control of dust. Complaints or concerns regarding nuisance dust conditions at the site should be addressed to the TCEQ Region 16 office in writing or in person at 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, or by telephone at (956) 791-6611.

## COMMENT 10

Mr. Gonzalez expressed concern that the Applicant may not be able to maintain sufficient training, documentation, and notification procedures to be certain prohibited wastes are excluded from the facility and special wastes are properly accepted and handled.

## RESPONSE 10

30 Tex. Admin. Code Section 330.127(5) requires that the SOP submitted with the application include procedures for the detection and prevention of the disposal of prohibited wastes. The rule requires that this program include random inspections of incoming loads, including compactor vehicles, and trained staff observation of each load disposed of. It must also include provisions for keeping records of inspections, training personnel, notifying the executive director and certain local agencies on receipt or disposal of certain types of prohibited waste, and remediating such an incident. 30 TAC 330.133(b) requires that trained facility staff involved with unloading/inspection have the authority to reject unauthorized loads, have the unauthorized load removed by the transporter, and/or assess appropriate surcharges, and have the material removed by on-site personnel, and that a record of any such removal be kept. 30 TAC §330.113(c) prohibits the unloading of prohibited wastes at the facility and requires the owner or operator to take steps necessary to ensure compliance with the rule. The rule further requires that any prohibited waste be either returned immediately to the transporter or otherwise properly managed by the landfill.

30 Tex. Admin. Code Section 330.171 provides rules and procedures applicable to acceptance and/or disposal of special wastes at this facility. The Applicant has not requested approval from the executive director permitting it to accept special wastes other than those described in 330.171(c) and (d) and 330.173, or to accept regulated asbestos-containing material (RACM). Under 30 Tex. Admin. Code Section 330.127, the SOP must include provisions for site management and the site operating personnel to meet the requirements regarding proper disposal of special wastes. If the applicant does not comply with the handling and disposal procedures laid out in 30 Tex. Admin. Code Sections 330.171 and 330.173, it will be in violation of the rules and subject to enforcement action.

Part II, Section 1.1 of the application states that the landfill will accept from health care-related facilities special waste that has been treated in accordance with Chapter 330, Subchapter Y.

It also states that the landfill will not accept RACM or any regulated hazardous wastes, radioactive wastes, or Class I industrial wastes. Acceptance of materials other than what is provided in the permit, of which the application is part, is a violation and could result in enforcement action by the TCEQ.

Section 7 of the SOP provides procedures for detection and control of the receipt of prohibited wastes, including training for facility personnel responsible for inspecting or observing incoming loads to recognize regulated hazardous waste and PCB waste. Records on employee training will be kept onsite in the Site Operation Record. The application includes a list of indications of prohibited wastes to look for and how to direct the load out of the flow of traffic and reject loads containing prohibited wastes. The application provides that gate/scale attendants will be instructed to be particularly diligent with loads from industrial facilities, microelectronics manufacturers, electronics companies, metal plating industry, automotive and vehicle repair service companies, and dry cleaning establishments. The SOP also provides for random inspections of incoming loads at the rate of at least 1% or one vehicle per day. Other measures for controlling prohibited wastes include posting signs that identify prohibited wastes and providing lists of prohibited wastes to customers, pre-acceptance screening methods, monitoring and observance of received waste; training of staff; maintaining inspection records, etc. The Executive Director has determined that the provisions contained in the application for detection and prevention of disposal of prohibited/unauthorized waste meet rule requirements.

Section 29 of the SOP provides information regarding acceptance and disposal of special wastes at the facility. The application provides that the Type IV area of the landfill will not accept any special wastes. The application provides that dead animals and non-friable asbestos containing material will be covered with a minimum of three feet of solid waste or two feet of soil immediately upon receipt. The Executive Director has determined that the provisions for acceptance and disposal of special waste at the site meet the requirements of 30 TAC §330.171 and §330.173

In addition to procedures specific to waste acceptance, the application contains general information related to employee training. Section 6 of the SOP describes job positions and lays out the training requirements for each. It provides that the personnel training program will be directed by a person trained in waste management procedures, and will include instruction that teaches facility personnel waste management procedures and contingency plan implementation relevant to the positions in which they are employed. The application states that new employees will receive

comprehensive training as well as periodic continued training, including a training meeting at least once a month. One of the topics specified by the application for the training meetings is prohibited waste management; another is random inspection procedures.

#### **COMMENT 11**

Mr. Gonzalez expressed concern that the Applicant may not be able to maintain personnel with minimum qualifications for each category of key personnel to be employed at the landfill sufficient to be protective of human health and the environment.

#### **RESPONSE 11**

The Executive Director acknowledges receipt of this comment. Please see Response 10, above, for more information on employee training requirements included in the application. If the application is granted, the application will be incorporated as part of the permit. If the applicant is unable to maintain personnel with minimum qualifications for each category of key personnel and this results in violation of a rule or law or failure to comply with its permit, it may be subject to enforcement action by the TCEQ.

#### **COMMENT 12**

Mr. Gonzalez expressed concern that the Applicant may not be able to properly manage leachate or gas condensate in a way that is protective of human health and the environment.

#### **RESPONSE 12**

The existing San Ygnacio landfill is classified as a Type I AE (Arid Exempt) landfill. As part of this application (Appendix B), the landfill has submitted a new certification of arid exempt eligibility as required by 30 TAC Section 330.65(d)(5). The Executive Director's staff has reviewed the certificate and determined that it complies with the rule. As provided by 30 TAC Sections 330.5(a)(1) and (2), arid exempt landfills are exempt from 30 TAC Chapter 330, Subchapter H, Liner System Design and Operation, and Subchapter J, Groundwater Monitoring and Corrective Action.

Therefore, there are fewer applicable rule requirements for leachate and gas condensate management than for landfills that do not qualify for arid exemption.

Part III-4, Section j describes management of contaminated water by diversion to a holding pond. Section m provides that methane gas will be monitored on a quarterly basis, with field sampling points along the perimeter of the site at intervals of approximately 600 feet. The application further specifies that the samples collected will be checked using a methane analyzer, and the results reported to TCEQ. The Executive Director has determined that the management plan meets the rule requirements for arid exempt landfills.

### **COMMENT 13**

Mr. Gonzalez expressed concern that the Applicant may not be able to operate the landfill in a manner that is protective of groundwater and that protects human health and the environment from runoff from the landfill. In addition, Mr. Gonzalez further questioned whether the existing groundwater at and in the vicinity of the site has been adequately characterized.

### **RESPONSE 13**

30 TAC §330.63(c) and §330.303, §330.305, and §330.307 require the applicant to provide a surface water drainage report that demonstrates that the owner or operator will design, construct, maintain and operate the facility to manage run-on and runoff during the peak discharge from at least a 25-year storm, ensure erosional stability of the landfill during all phases of landfill operation, closure, and post-closure care, provide structures to collect and control at least water volume resulting from a 24-hour, 25-year storm, protect the facility from washouts, and ensure that existing and permitted drainage patterns are not adversely altered.

Section h on Page III-3 (Run-Off Management System, Attachment 6 (Groundwater and Surface Water Protection Plan and Drainage Plan), and Attachment 15 (Leachate and Contaminated Water Plan) of Part III of the application provides discussions and detailed design, calculations, and operational considerations for the collection, control, and discharge of stormwater from the facility as required by the above-referenced rules. The surface water management plan described in the application consists of perimeter channels that will convey on site stormwater run-off into an

existing 1.4 acre-foot detention pond located at the northwest corner of the site. In addition a 4.6 acre-foot detention pond will also be constructed at the northeast corner of the expansion area to collect onsite run-off and also intercept the run-on. These perimeter channels and detention ponds allow better control of the site stormwater run-off and reduce peak outflow from the site so that the development of the site will not significantly alter the existing drainage patterns outside the boundary of the landfill. Furthermore, control of stormwater run-off on the proposed landfill will consist of the diversion of uncontaminated stormwater and containment of potentially contaminated water. Diversion berms will separate active sectors (working face and potentially contaminated) from areas of intermediate cover (uncontaminated). These berms will direct uncontaminated stormwater away from the working face, and into the perimeter channels of the site drainage system. Containment of stormwater at the working face will be accomplished by berms (in aerial sectors) or by adjacent unexcavated sectors (below grade). Contaminated water will be removed via vacuum truck. In addition, a contaminated water holding pond will hold contaminated water should an extreme weather event occur and it becomes necessary to pump contaminated water from the active area. The contained contaminated water will be taken to the wastewater plant operated by Zapata County.

A demonstration that existing permitted drainage patterns will not be adversely altered is provided under Section h on Page III-3 (Run-Off Management System, Attachment 6 (Groundwater and Surface Water Protection Plan and Drainage Plan), and Attachment 15 (Leachate and Contaminated Water Plan) of Part III of the application as required. The application indicates that the facility will handle uncontaminated stormwater and contaminated water as described above. No adverse impact on the existing receptors is expected, since contaminated water will be handled separately from uncontaminated stormwater and the existing permitted drainage pattern will not be adversely altered.

The Executive Director has determined that the application complies with all applicable requirements regarding management of runoff, including drainage and erosion controls.

30 TAC 330.61(k)(1) requires the owner or operator to submit data about the site-specific groundwater conditions at and near the site.

The Applicant provided a geology report in Attachment 4 to Part III of the application. The geology report indicates that groundwater was encountered in one boring, labeled as B-1, at a depth of approximately 135 feet below ground surface. The remaining eight borings were drilled to an approximate depth of either 25 feet or 65 feet below ground surface and did not encounter any

groundwater. The geology report also includes a groundwater certification statement that indicates that the existing landfill has not impacted groundwater at the site based on groundwater samples collected from boring B-1. A professional geoscientist (PG) on the Executive Director's staff reviewed the geology report and determined that it provides the groundwater characterization data required by 30 TAC 330.61(k)(1).

#### **COMMENT 14**

Citing the Applicant's compliance history, Mr. Gonzalez expressed concerns regarding whether the Applicant will maintain its landfill cover in a sufficiently protective manner.

#### **RESPONSE 14**

The proposed expanded landfill would consist of a Type IAE area and a Type IVAE area. 30 TAC Section 330.165(a) requires that a Type IAE landfill apply six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste at the end of each day. 30 TAC Section 330.165(b) requires that a Type IVAE landfill must apply cover no less than weekly. 30 TAC Section 330.165(c) requires that any area that will be inactive for 180 days or more be covered with an intermediate or final cover of at least six inches of earthen material suitable for plant growth and requires erosion control.

In the application materials, SOP Section 26 provides that the facility will be covered daily with six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste, and that intermediate cover of six inches of earthen material supportive of plant growth will be added over any area that will be inactive for 180 days or more and will be seeded or sodded to prevent erosion. The SOP provides that periodic inspections and restorations will be conducted as required by rule and that erosion of final or intermediate cover will be repaired within five days of detection. Further, the SOP provides for the maintenance of a cover application record on-site and available for TCEQ review. The Executive Director's staff has reviewed the portions of the application regarding landfill cover and determined that it complies with the applicable rules.

## COMMENT 15

Mr. Gonzalez is concerned that the Applicant's closure and post-closure plans may not adequately protect human health and the environment after the landfill has closed.

## RESPONSE 15

30 TAC Section 330.457(e) lays out requirements applicable to the San Ygnacio facility's closure plan. The plan must describe the steps necessary to close all MSW landfill units at any point during the active life at the unit. It must include, at a minimum: a description of the final cover design, methods, and procedures to be used to install the cover; an estimate of the largest area of the MSW facility ever requiring final cover at any time during the active life of the facility; an estimate of the maximum inventory of wastes ever on-site over the active life of the facility; a schedule for completing closure activities; and a final contour map depicting proposed final contours.

Applicable post-closure care requirements are laid out in 30 TAC Section 330.463(b)(3). The rule requires that the post-closure care plan include, at a minimum: a description of the monitoring and maintenance activities required for each unit and the frequency at which the activities will be performed; the contact information for the person responsible for overseeing and/or conducting post-closure care activities; a description of the planned uses of any portion of the closed unit during the post-closure care period (30 years); and a detailed written estimate of the cost of post-closure care maintenance and any corrective action required and which satisfies requirements of Chapter 330, Subchapter L.

The Final Closure Plan and Post Closure Plan can be found in the application as Attachments 12 and 13 to Part III. The Final Closure Plan includes a description of the final cover design, as an 18-inch earthen infiltration layer that has a coefficient of permeability of no greater than  $1 \times 10^{-5}$  covered by a minimum of six inches of topsoil suited for plant growth. The plan provides that the topsoil will be seeded with native grasses to prevent erosion and specifies the mix of grass seed proposed to be used and the method for seeding. The plan also provides for testing by an independent soils testing lab to verify the suitability of the materials used in the final cover. The plan projects that the largest volume of waste that will be stored in the landfill is estimated at 345,000 cubic yards in the Type I AE area and 77,000 cubic yards in the Type IV AE area. The plan

estimates that the largest area ever requiring final cover will be fourteen (14) acres. Finally, the plan provides an estimated closure cost of \$327,500 (2007 dollars). In addition to the requirements of the rule, the plan includes requirements for implementation.

The Executive Director's staff reviewed the plans and determined that they include each of the requirements laid out in the applicable rules.

#### **COMMENT 16**

Mr. Gonzalez is concerned that the cost estimates may not be accurate and that the Applicant may not be able to provide sufficient financial assurance to be protective of human health and the environment during closure and post-closure.

#### **RESPONSE 16**

30 TAC Chapter 330, Subchapter L (§§330.501 et.seq.) lays out rules related to cost estimates for closure, post-closure, and corrective action. The rules require the submission of cost estimates upon application for a modification to an existing MSW permit, therefore, the applicant is required to submit cost estimates with this application. The rules require the owner or operator to submit a detailed written cost estimate, in current dollars, showing the cost of hiring a third party to close the largest waste fill area that could potentially be open in the year to follow and those areas that have not received final cover in accordance with the final closure plan. The applicant must also submit a written cost estimate of the cost of hiring a third party to conduct post-closure care activities for the facility, in accordance with the post-closure care plan.

Attachment 8 to Part III of the application includes cost estimates for closure and post-closure care for the proposed expanded landfill. The closure cost estimate of \$327,500 includes costs for engineering, construction, contractor performance bond, and legal fees. The post-closure cost estimate of \$147,300 includes engineering and construction costs, such as annual costs for reseeded and re-grading final cover, site inspection, and quarterly gas monitoring for the duration of the 30-year post-closure care period. The Executive Director's staff reviewed the cost estimates submitted and determined that they comply with the requirements of Subchapter L.

Under 30 TAC 330.503(b) and 330.507(b), the owner or operator of a municipal solid waste unit must establish financial assurance for closure and post-closure care in accordance with 30 TAC Chapter 37, Subchapter R. Under 30 TAC 37.8031(a), the applicant may use any of the financial assurance mechanisms provided for in Chapter 37, Subchapter C. According to Attachment 8 to Part III of the application, the applicant elected to use the Local Government Financial Test, as provided by 30 TAC 37.271. The Executive Director's staff reviewed the information submitted regarding the selected financial assurance mechanism and found that it meets requirements for the Local Government Financial Test.

#### **COMMENT 17**

Mr. Gonzalez expressed concern that the Applicant may not be able to maintain protections against fire in the expanded or existing area sufficient to protective of human health and the environment.

#### **RESPONSE 17**

30 Tex. Admin. Code Section 330.129 requires the owner or operator of the facility to maintain a source of earthen material in such a manner that it is available at all times to extinguish any fires. The rule requires the SOP submitted with the application to include demonstrations of the adequacy of the earthen material and equipment that will be used to transport it, as well as a fire protection plan that identifies standards to be used at the facility and how personnel are trained. Proper compaction and cover are also required.

The fire protection plan for the facility is contained in the SOP at Section 8. It includes a prohibition on open burning of waste at the landfill and smoking in active landfill areas or near the brush grinding operation, and requirements that fuel spills be cleaned up immediately, and non-flammable cover be used daily, among other things. It also includes steps that landfill staff must follow in the event that a fire is discovered, starting with contacting the local fire department. The application includes information about appropriate fire-fighting methods for burning solid waste, including smothering with soil, separating and isolating burning material, and spraying with water. The application also provides that a minimum of 100 cubic yard of soil or enough soil to cover the working face with at least six inches of compacted soil will be stockpiled within 2,500 feet of the

working face, and further provides that, due to the size of the landfill, the stockpile will actually be no further than 750 feet from the working face. The application states that the operator will, at all times, maintain sufficient equipment for moving the soil stockpile and placing a six-inch soil cover over the working face within one hour of detecting a fire at the working face. The application also includes information regarding fire equipment to be kept on site, fire protecting training for on-site personnel, and provides for the required notification of TCEQ in the event of a reportable fire.

After reviewing the fire protection plan in the application, the Executive Director's staff has determined that it includes all of the information and demonstrations required by 30 TAC 330.129.

## V. Changes Made in Response to Comments

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Robert Martinez  
Deputy Director  
Environmental Law Division



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**CERTIFICATE OF SERVICE**

I certify that on June 19, 2008, the "Executive Director's Amended Response to Public Comment" for MSW Permit No. 783 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

*Shana L. Horton*

Shana L. Horton, Staff Attorney  
Environmental Law Division  
State Bar No. 24041131

CHIEF CLERKS OFFICE

2008 JUN 19 PM 4: 09

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

# Attachment E



Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
December 15, 2008



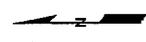
Projection: Texas Statewide Mapping System  
(TSMS)  
Scale 1:15,000

- Legend
- Proposed Landfill Expansion
  - Existing Landfill
  - Gonzalez Property
  - Requestor's Property

Source: The location of the property was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infrared (CIR). The image classification number is IS029\_1-1.

This map depicts the following:

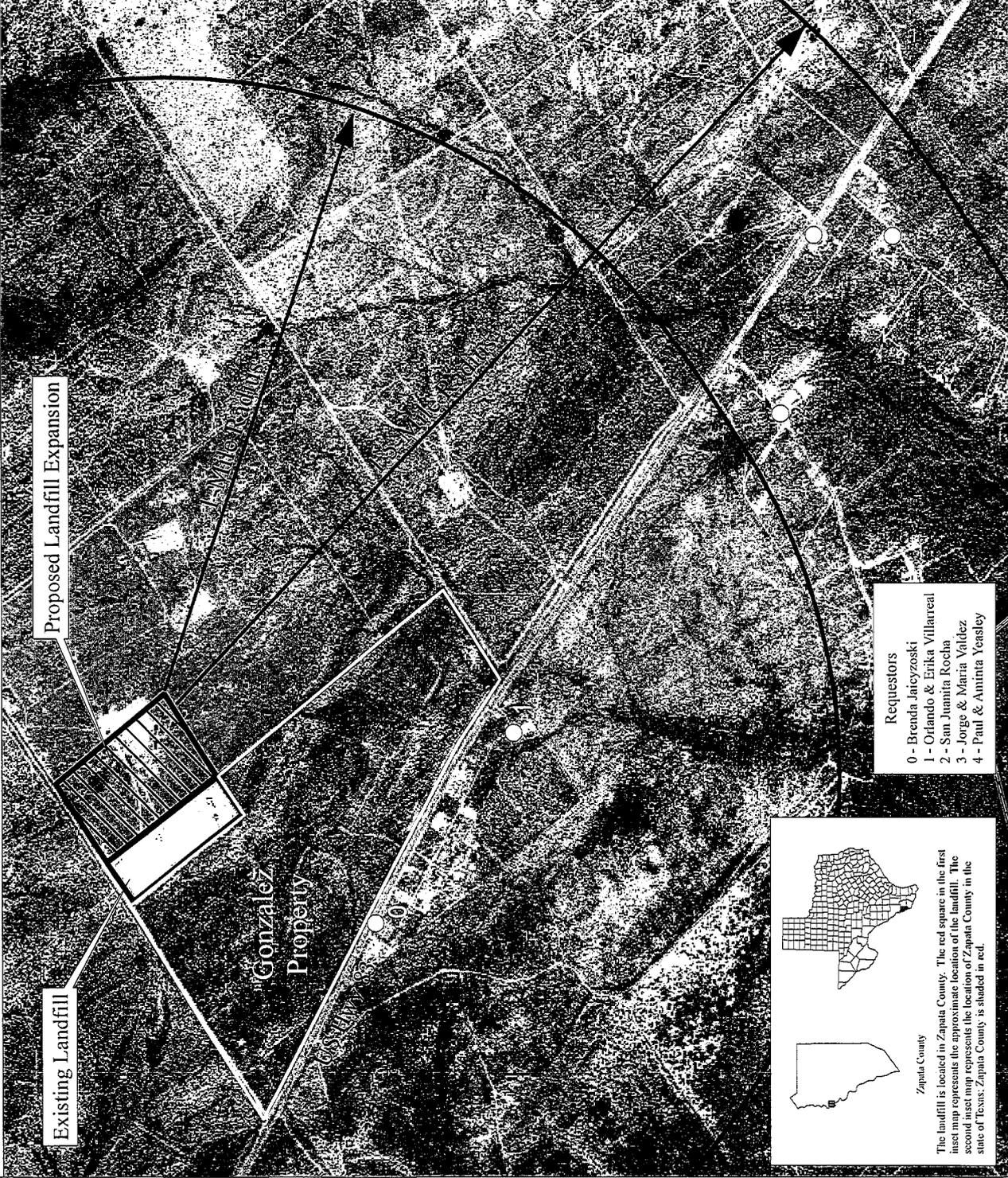
- (1) The approximate locations of the existing and proposed landfill sites. These are labeled "Existing Landfill" and "Proposed Landfill Expansion".
- (2) The requestor's property. This is labeled "Gonzalez Property".
- (3) Other requestors' properties. These are labeled with a number corresponding to the name in the legend.
- (4) A circle and arrow depicting the 1.5-mile radius from the proposed landfill extension.
- (5) A circle and arrow depicting the 1-mile radius from the proposed landfill extension.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0810.

# Zapata County, MSW Permit No. 783

## Map Requested by TCEQ Office of Legal Services



Existing Landfill

Proposed Landfill Expansion

Gonzalez Property

- Requestors
- 0 - Brenda Jacyzowski
  - 1 - Orlando & Erika Villarreal
  - 2 - San Juanita Rocha
  - 3 - Jorge & Maria Valdez
  - 4 - Paul & Annita Vensley



The landfill is located in Zapata County. The red square in the first inset map represents the approximate location of the landfill. The second inset map represents the location of Zapata County in the state of Texas; Zapata County is shaded in red.

Zapata County