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Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

May 13, 2011

TO: Persons on the attached mailing list.

RE: Micro Dirt, Inc., d.b.a. Texas Organic Recovery
Permit No. 2361

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the City of Creedmoor, City Hall/Creedmoor Community Center, 12513 FM 1625, Creedmoor, Travis County, Texas 78610.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and

- (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

Melissa Chao, Acting Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

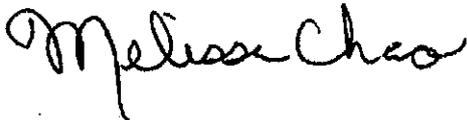
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



Melissa Chao
Acting Chief Clerk

MC/er

Enclosure

MAILING LIST
for
Micro Dirt, Inc., d.b.a. Texas Organic Recovery
Permit No. 2361

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See attached list.

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TCEQ MUNICIPAL SOLID WASTE PERMIT NO. 2361

CHIEF CLERKS OFFICE

**APPLICATION BY §
MICRO DIRT, INC., D.B.A. §
TEXAS ORGANIC RECOVERY §
FOR MSW PERMIT NO. 2361 §**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

Executive Director's Response to Public Comment

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Micro Dirt, Inc., d.b.a. Texas Organic Recovery (Micro Dirt or Applicant), for a new Municipal Solid Waste Permit Number 2361. As required by 30 Texas Administrative Code (TAC) Section 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comments from the Honorable Eddie Rodriguez, Texas House of Representatives; H. Philip Whitworth, Jr., Ann Witworth Messer, Julie W. Moore, Juli Phillips, M.D. Thomson, representing the Thomson Family Limited Partnership, Joe Gunn, Dorothy Gunn, Jay Gunn, and Corinna Gunn, all represented by Bob Renbarger and J.D. Head; Jon White representing Travis County; Robin Schneider representing Texas Campaign for the Environment; Edwin E. Benner representing Creedmoor Grocery; Carter Mayfield representing SOS Liquid Waste Haulers; Phillip McCowan; and William Rogers. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the municipal solid waste permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.gov.

I. Background

A. Description of Facility

Micro Dirt is applying for a permit that would authorize it to operate a composting facility and a liquid waste processing facility. Attachment A shows a diagram of the proposed facility.

Micro Dirt is seeking authorization to operate within a lined area of 15.23 acres. A liner is a continuous, protective layer beneath and on the sides of a facility to restrict the downward or horizontal migration of pollutants. The liner system proposed by

Micro Dirt consists of an in-situ, clay liner at a depth of approximately 9 feet below ground surface and a constructed sidewall liner that extends from the bottom liner to three feet above the surface. Permeability is the measure of a material's ability to transmit fluids. The TCEQ has found that a material with a permeability of 1×10^{-7} centimeters per second or less will be protective of the environment and human health as it will prevent seepage of pollutants. The liner system Micro Dirt is proposing for the facility is designed to have a permeability of 1×10^{-7} centimeters per second or better, which will be sufficient to prevent any pollutants, polluted liquids, or materials from exiting the facility via the subsurface.

Furthermore, Micro Dirt proposes to operate a surface impoundment with a capacity to hold up 5.85 million gallons. The surface impoundment is located at the lowest point of the Micro Dirt facility. Therefore, all of the liquids on the site, including the liquids that are released by the compost windrows, will drain to the surface impoundment, as can be observed in Attachment B. The surface impoundment is lined in the same way as the other portions of the facility. Therefore, liquids will not be able to escape from the surface impoundment via the subsurface. Furthermore, the surface impoundment will be maintained with sufficient capacity to handle runoff from the 24-hour, 25-year storm event of 2.78 million gallons of water.

Composting Operations

Regarding the composting facility, Micro Dirt must comply with the provisions in 30 TAC Chapter 332, which regulate composting facilities. Micro Dirt is seeking to compost "...feedstocks which are limited to municipal sludge, septage, grease trap waste, source separated yard and tree trimmings, wood chips, paper, cardboard, clean wood, positively-sorted organic material, source separated organic material, agricultural waste and materials, dead animals, expired food wastes, dairy materials, manure and vegetative food waste including class 2 industrial food preparation waste and non-hazardous industrial solid waste as detailed in 30 TAC § 332.4(10)." See Draft Permit 2361, Section II(B). No other wastes can be accepted at the Micro Dirt facility for composting purposes.

The composting operations are limited to the lined 15.23 acres sought by Micro Dirt to operate its facility on.

Processing Facility

Regarding the processing facility, Micro Dirt must comply with the provisions in 30 TAC Chapter 330, which regulate municipal solid waste processing units. Under Proposed MSW Permit 2361, a heating vessel and eight 18,000 gallon tanks with a total capacity of 144,000 gallons would be authorized to receive and process liquid waste materials. Unprocessed liquids in the units could be stored for a maximum of 72 hours. The liquids in the tanks would be utilized as moisturizing agents in composting operations. The heating vessel could be used to heat grease trap waste to separate fats, oils, and food solids from water.

Compliance with Permit

If Micro Dirt is granted the permit, Micro Dirt will be required to comply with the provisions in it. In addition to its specific provisions, the permit incorporates the provisions of Micro Dirt's permit application and the rules of 30 TAC Chapters 330 and 332 into the permit. See Cover of Draft Permit and Section IX of Draft Permit. Under Texas Water Code § 7.002, the TCEQ is granted the authority to institute legal proceedings to compel compliance with rules and permits. Micro Dirt, therefore, must comply with the provisions in the permit, in the rules, and in its application.

If Micro Dirt fails to follow its permit specifications or the criteria established by the TCEQ, the TCEQ can initiate an enforcement action against Micro Dirt. As a consequence of an enforcement action, the TCEQ can assess administrative penalties against Micro Dirt, the TCEQ can require Micro Dirt to comply with its permit specifications, and the TCEQ can suspend Micro Dirt's operations until it complies with the permit specifications or the criteria established by the TCEQ. Members of the public that detect potential permit violations are encouraged to contact the local TCEQ regional office to report the potential permit violations so the cause of the problem may be determined and addressed.

B. Procedural Background

The application was submitted on May 13, 2009. An Administrative Notice of Deficiency (NOD) was issued on June 1, 2009, and the application was declared administratively complete on July 6, 2009. The Notice of Receipt of Application and Intent to Obtain Permit was published in English on November 10, 2009, in the *Austin American-Statesmen* and in Spanish on July 16, 2009, in the *iAhora Si! Spanish Newspaper*, Travis County, Texas. The ED issued its First Technical NOD on August 28, 2009, and the applicant submitted a response to the NOD on January 25, 2010. The ED issued its Second Technical NOD on March 22, 2010, and the applicant submitted a response to the NOD on May 18, 2010. A public meeting was held on September 2, 2010. The applicant published notice of the public meeting on August 12, 2010, August 19, 2010, and August 26, 2010, in the *Austin American-Statesmen* and in the *iAhora Si! Spanish Newspaper*, Travis County, Texas. The ED completed the technical review of the application on October 18, 2010, and prepared a draft permit. The Notice of Application and Preliminary Decision was published in English on November 5, 2010, in the *Austin American-Statesmen* and in Spanish on November 11, 2010, in the *iAhora Si! Spanish Newspaper*, Travis County, Texas. A second public meeting was held on February 22, 2011. The applicant published notice of the public meeting on February 3, 2011, February 10, 2011, and February 17, 2011, in the *Austin American-Statesmen* and in the *iAhora Si! Spanish Newspaper*, Travis County, Texas. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

to access the Secretary of State website: www.sos.state.tx.us;

for TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/
(select "TAC Viewer" on the right, then "Title 30 Environmental Quality");

for Texas statutes: www.capitol.state.tx.us/statutes/statutes.html;

to access the TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules");

for Federal rules in Title 40 of the Code of Federal Regulations:

www.epa.gov/epahome/cfr40.htm; and

for Federal environmental laws: www.epa.gov/epahome/laws.htm.

Commission records on the Micro Dirt application are available for viewing and copying at the City of Creedmoor, City Hall, 12405 FM 1625, Creedmoor, Travis County, Texas 78610.

II. Comments and Responses

Comment 1: (Groundwater Protection of Composting Operations)

Commenters submit that the proposed composting facility will fail to manage and dispose of liquids generated, and that this will result in groundwater pollution. Commenters also submit that the groundwater monitoring plan proposed for the facility is inadequate to detect groundwater contamination.

Response 1:

The Executive Director reviewed the application for the composting operation for compliance with the agency's rules for protecting groundwater. The Chapter 332 rules require Micro Dirt to provide and follow a groundwater protection plan for the composting operation.

Rule § 332.47(6)(C) establishes the requirements for the groundwater protection plan. In order to satisfy this rule, the applicant has the burden of demonstrating that the facility "...is designed so as not to contaminate the groundwater and so as to protect the existing groundwater quality from degradation." The groundwater protection plan must include a liner system and a groundwater monitor system.

Liner

A liner is a continuous, protective layer beneath and on the sides of a facility to restrict the downward or horizontal migration of pollutants. Rule § 332.47(6)(C)(i)

requires that all areas that will be used in the composting operation "...shall be located on a surface which is adequately lined to control seepage." Micro Dirt proposes to operate all of its composting activities within a lined area of 15.23 acres. Rule § 332.47(6)(C)(i) requires that the liner have a permeability of 1×10^{-7} centimeters per second or less. Permeability is the measure of a material's ability to transmit fluids. The TCEQ has found that a material with a permeability of 1×10^{-7} centimeters per second or less will be protective of the environment and human health as it will prevent seepage of pollutants.

The liner system that is being proposed by Micro Dirt consists of an in-situ clay liner that is located at a depth of approximately 9 feet below ground surface and a constructed sidewall liner that extends from the bottom liner to three feet above the surface. This liner system is designed to have a permeability of 1×10^{-7} centimeters per second or less as required by the TCEQ rules. In effect, Micro Dirt is proposing to create a "bathtub" in the subsoil which will prevent pollutants from escaping the facility. After a thorough review of the submission, MSW Permits Section staff determined that the applicant provided a valid liner plan that meets the TCEQ rules.

Groundwater Monitoring System

Rule § 332.47(6)(C)(ii) requires the groundwater monitoring system to be designed to "...reasonably assure detection of any contamination of the groundwater before it migrates beyond the boundaries of the site." A groundwater monitoring system will detect perched groundwater and pollutants that present a risk prior to groundwater migrating beyond the boundaries of the site. Rule § 332.47(6)(C)(ii) requires the monitoring system to be based on the information obtained from the Groundwater investigation report. Please refer to comment 3, below, to obtain more information on the report.

Rule § 332.47(6)(C)(ii) requires that details of monitor well construction and placement of monitor wells be shown on the site plan. The groundwater monitoring system consists of nine groundwater monitoring wells encompassing the facility at depths above and below the bottom liner. Attachment A shows the placement of the nine proposed monitoring wells, just outside the perimeter of the 15.23 acres. Attachment C shows the monitoring well design and construction.

Rule § 332.47(6)(C)(ii)(II) requires Micro Dirt to adopt a groundwater sampling program that includes four background groundwater samples from all monitor wells within 24 months from the date of the issuance of the permit. Thereafter, under § 332.47(6)(C)(ii)(II)(-c-), Micro Dirt is required to submit testing samples for certain constituents at a minimum of 12-month intervals. The sampling plan proposed by Micro Dirt requires the establishment of background concentration for sampling parameters and then annual sampling and comparison with established background concentrations as required by the rules presented above. The groundwater monitoring system design and sampling plan meet the TCEQ rules to ensure detection, if a release occurs. The applicant's proposed groundwater monitoring system design and sampling plan will ensure detection if a release occurs in compliance with the TCEQ rules in Chapter 332. If a release were to occur, Micro Dirt would be required to perform corrective action in accordance with Rule 332.45(13).

Surface Impoundment

Micro Dirt proposes to operate a surface impoundment with a capacity of 5.85 million gallons. The surface impoundment will serve two main purposes for the Micro Dirt's composting operations. First, it will provide moisturizing liquids to be applied to the compost windrows. Second, it will serve as the drainage point for all storm water or contaminated water runoff from the surface.

The surface impoundment is located within the 15.23 acres of the Micro Dirt facility at the lowest point of the facility. Therefore, all of the liquids on the site, including the liquids resulting from a tank rupture and liquids that are released by the compost windrows, will drain to the surface impoundment. Attachment B shows the natural contours of the facility and which shows that liquids will naturally flow to the surface impoundment.

The surface impoundment is lined in the same manner as the rest of the facility as discussed in the **Liner** section above. Therefore, liquids from the surface impoundment are expected to be contained and not allowed to escape from the Micro Dirt facility via the subsurface.

Conclusion

Micro Dirt's proposed plans for protecting groundwater meet the TCEQ rules and are expected to prevent groundwater contamination.

Comment 2: (Surface Water Protection of Composting Operations)

Commenters submit that the proposed composting facility will fail to manage and dispose of liquids generated, and that this will result in surface water pollution.

Answer 2:

The TCEQ rules in 30 TAC § 332.47(6)(A) requires the applicant to provide a surface water protection plan that includes controls for storm water run-on and storm water and leachate runoff. Drainage controls must account for the 25 year, 24-hour storm event and must include drainage calculations. The applicant is also required to provide a floodplain and wetlands map. Finally, the plan shall show erosion control features on-site.

Rule § 332.47(6)(A)(iv)(I) requires Micro Dirt to provide surface water drainage calculations by using an approved calculation method. Micro Dirt provided the calculations by using the rational calculation method as required by the rule. Micro Dirt's drainage calculations are presented on pages 2.1 and 9.1 of their application. Furthermore, rule § 332.47(6)(A)(iv)(III) requires Micro Dirt to provide calculations for sizing containment facilities for leachate. Micro Dirt submitted a calculation worksheet by determining the mass balance of leachate and by taking into account the facility's proposed leachate disposal method.

Micro Dirt provided a surface water protection plan in Appendix H of the application. Pages 1 and 2 of the plan show the topography in and around the site and the flow of surface water from noted offsite drainage areas. Pages 6 and 7 of the plan

show on-site drainage patterns which demonstrate that all runoff is captured by the lined surface impoundment. In addition, there will be an above-surface, three-foot berm that will surround the 15.23 acre facility that will prevent pollutants from escaping through the surface. In its permit application, Micro Dirt states that it will install a berm in the perimeter of the facility to provide protection against surface water pollution. Micro Dirt adds that a protective vegetative cover will be installed on the berm in the facility's perimeter to minimize the erosion of the berm. Furthermore, Micro Dirt states that the perimeter berm will be maintained in a stable vegetated condition and will be monitored to identify any possible deterioration of the berm. *See* Permit Application, p. 37.

The applicant's proposed surface water protection plan is properly designed to prevent releases of pollutants in compliance with the TCEQ rules in Chapter 332.

Comment 3: (Groundwater Investigation Report)

Commenters submit that the Groundwater Investigation Report is flawed and not in accordance with TCEQ regulations.

Response 3:

Rule § 332.47(6)(B)(v) requires the applicant to submit a Groundwater Investigation Report to establish the "...groundwater flow characteristics at the site which shall include groundwater elevation, gradient, and direction of flow." The rule requires that six monitoring wells be installed for a facility of 15.23 acres. Furthermore, the rule requires the report to show water flows in both narrative and graphic format.

Micro Dirt's Groundwater Investigation Report, by Michael Thornhill, P.G., dated September 30, 2004, is in Appendix I, pages 13 through 21 of Mirco Dirt's application. The findings of the report are based on the data obtained from six monitoring wells and from elevations obtained from a United States Geological Survey Digital Elevation Model. The report shows water flow directions in both narrative and graphic format. The applicant drilled six monitoring wells as required by the rules and identified the groundwater flow characteristics including groundwater elevation, gradient, and direction of flow in both narrative and graphic format.

During technical review of this information, MSW staff had concerns regarding the accuracy of the location of the "B" set of on-site borings. In response, the applicant provided an updated report utilizing the surveyed "A" set of borings, pages 27.1 through 27.5 in Appendix I. The updated report shows water flow directions in both narrative and graphic format. The updated report concluded that groundwater would likely be located at the top of the Taylor Navarro formation.

The information provided in the application meets the requirements of the cited rules by documenting the groundwater flow characteristics at the site.

Comment 4: (Subsurface Investigation Report)

Commenters submit that the Subsurface Investigation Report is flawed and not in accordance with TCEQ regulations.

Response 4:

Rule § 332.47(6)(B)(iv) requires the applicant to submit a Subsurface Investigation Report that includes detailed boring logs showing materials encountered, the elevation of all contacts between soil and rock layers, a description of each layer using the Unified Soil Classification, and color of the materials encountered. The rule requires the applicant to test boring samples for soil properties such as degree of compaction and moisture content. The report shall also include a site map drawn to scale showing the surveyed locations and elevations of the boring.

Micro Dirt provided a Subsurface Investigation Report that included logs for two sets of on-site borings and six groundwater monitoring well boring logs. The borings are presented as logs showing the lithology of the underlying formation using the Unified Soil Classification and are located in Appendix I, pages 15 through 20, 36 through 41, and 50 through 69. A site map, page 1 of Appendix I, was provided showing the surveyed location and elevation of the "A" set of borings. Select A boring samples were sent to a laboratory to obtain soil properties. Tests were run on boring samples for moisture content, Atterberg Limits, percent of material passing the number 200 sieve, and hydraulic conductivity. Laboratory test results are provided in the report on pages 71 through 80.

Rule § 332.47(6)(B)(iv)(I) requires a sufficient number of borings based on facility size. The rule indicates that three borings plus one boring for each additional five acres or fraction thereof is required. For a 15.23 acre site, six borings would be required.

Micro Dirt provided boring log information for six "B" borings, 20 "A" preliminary borings, and six groundwater monitoring well borings. The information provided was sufficient to characterize the 15.23 acre site.

Rule § 332.47(6)(B)(iv)(II) requires the borings to be sufficiently deep to allow identification of the uppermost aquifer and underlying hydraulically interconnected aquifers. The rule requires borings to be at least 30 feet deeper than the elevation of the deepest excavation on site. A soil boring plan was properly submitted by Micro Dirt in accordance with TCEQ rules.

Rule § 332.47(6)(B)(iv)(III) and (IV) requires borings to be conducted in accordance with established field exploration methods and the installation, abandonment, and plugging of the boring be performed in accordance with the rule.

Micro Dirt hired Thornhill Group, Inc. and HOLT to conduct the on-site borings. The reports indicate that a licensed well driller was used and the reports were signed and sealed by either a licensed Professional Geoscientist or a licensed Professional Engineer. These reports and borings were conducted using established field exploration methods.

Rule § 332.47(6)(B)(iv)(V) requires Micro Dirt to submit a cross-section based on the information obtained from the borings. Micro Dirt submitted a cross-section based on the "B" set of borings and the groundwater monitoring well borings. See Page 9, Appendix I. Micro Dirt also submitted a cross-section based on the "A" set of borings. See Page 27.3, Appendix I.

Rule § 332.47(6)(B)(iv)(VI) requires a summary of the investigator's interpretations of the subsurface stratigraphy based upon the field investigation. The subsurface investigation report in Appendix I provides a summary of the investigation

findings both textually and graphically in the form of boring logs. The information provided in the application meets the requirements of the cited rules by providing a subsurface investigation report meeting the requirements of the cited rules.

Comment 5: (Surface Water and Groundwater Protection from Processing Operations)

Commenters submit that the proposed processing facility will fail to manage and dispose of liquids generated in a manner that will not cause surface water and groundwater pollution.

Response 5:

The Executive Director reviewed the application for the processing operation's compliance with the agency's rules for protecting surface water and groundwater. The 30 TAC Chapter 330 rules require Micro Dirt to provide and follow a surface water and groundwater protection plan for the processing operation.

Rule § 330.207 establishes the contaminated water management plan requirements for processing units. In order to satisfy this plan, the applicant has the burden of demonstrating that "...liquids resulting from the operation of solid waste facilities shall be disposed of in a manner that will not cause surface water or groundwater pollution." See 30 TAC § 330.207(a). The liquids received at the facility will be off-loaded from the storage trucks using a hose which is attached to the initial receiving storage/processing tanks. All of the contents in the tanks of the processing facility will move through pipes and hoses. Furthermore, the tanks are enclosed and there will be a concrete layer beneath the tank ports capable of containing minor spills. In case of a spill, under Micro Dirt's Facility Inspections and Maintenance Plan, the spilled materials will be captured, cleaned up and pumped back into the tanks. See Standard Operating Procedures (SOP), p.7. Under Micro Dirt's proposed SOP, the processing area will be cleaned in the case of spillage and all of the equipment will be washed twice a week or as needed. If there is total tank failure, then the information in Comment 6 below applies.

The wastes that are stored in the processing facility will be used as moisture conditioning agents for the compost windrows. As explained in the comments above, the Micro Dirt facility has been designed to have a liner and a groundwater monitoring system to prevent pollutants escaping the Micro Dirt facility via the subsurface. In addition, there will be an above-surface, three-foot berm that will surround the 15.23 acre facility that will prevent pollutants from escaping over the surface as runoff.

Based on the above information, Micro Dirt's surface water and groundwater protection plan for the processing facility meets the TCEQ rules and is adequate to protect groundwater and surface water.

Comment 6: (Worst Case Spill or Release)

Commenters are concerned about Micro Dirt's ability to contain a worst case spill or release from the processing tanks.

Response 6:

The proposed permit will authorize the processing of liquid waste and solid waste materials such as municipal sludge, septage, and grease trap waste. Processing facilities must meet rules regarding the containment of a worst case spill or release in compliance with rules §§ 330.63(d)(1)(B) and 330.227. These rules require facilities that store, process, and transfer wastes, such as Micro Dirt, to be designed "...to control and contain a worst case spill or release from the unit." Although "worst case spill or release" is not defined in the TCEQ rules, federal rules regulating hazardous waste define a worst case spill as the release of the total contents of the largest tank or of 10% of total capacity, whichever is greatest. See 40 Code of Federal Regulations 112.20 and 30 TAC Chapter 335. Applying this standard to the proposed processing facility would translate into a requirement that 18,000 gallons of material be controlled and contained representing the full capacity of one of the eight tanks.

The design of the facility submitted in the application proposes a containment berm and sidewall liner around the 15.23 acre processing area and a 5.85 million gallon (MG) surface impoundment. As can be seen in Attachment B, the natural contours of the Micro Dirt facility will guide the released liquids to the 5.85 MG surface impoundment. The design of the facility submitted in the application shows that the surface impoundment, with a capacity of 5.85 million gallons, and a freeboard, or excess capacity, of 2.78 million gallons. Therefore, the surface impoundment will have sufficient capacity to adequately contain all of the material from all eight tanks, which amounts to 144,000 gallons. As mentioned in the Background Section above, the land under the processing facility and the surface impoundment will be lined and there will be a berm around the perimeter of the facility to prevent any of the spilled or released materials from exiting the facility either via the surface or via the subsurface.

The facility design for the worst case spill or release meets the requirements of 30 TAC §§ 330.63(d)(1)(B) and 330.227.

Comment 7: (Financial Assurance)

Commenters submit that the amount of financial assurance proposed is insufficient.

Response 7:

Micro Dirt will be required to provide \$301,500 in financial assurance to the TCEQ. This amount of financial assurance was accepted as being sufficient and in compliance with TCEQ rules.

Processing Facility

Under 30 TAC § 330.505, relating to financial assurance for processing units, Micro Dirt is required to provide a written cost estimate showing the cost of hiring a third party to close the processing facility by disposition of all processed and unprocessed materials in accordance with all applicable regulations. The rules require the calculations to be based on a per cubic yard and/or short ton measure for collection and disposition costs. The cost estimate is based on removing the maximum inventory

of liquid from the eight liquid waste storage tanks. In addition, Micro Dirt is required to provide financial assurance for either removal or decontamination of equipment and units such as tanks, heating vessels, screens, and the concrete spill containment unit.

Composting Facility

Under 30 TAC § 332.47(9), relating to financial assurance for composting facilities, Micro Dirt is required to provide financial assurance to the TCEQ for cost of closure based on the disposal by a third party of all compost piles, waste materials, and feedstock; all contaminated water; and all contaminated soil. The cost estimate is based on the maximum inventory of material on-site, including the maximum allowable volume of contaminated water stored in the on-site surface impoundment.

Conclusion

Considering the maximum amount of material authorized to be on site, Micro Dirt calculated that they would need to dispose of up to 20,000 yards of unprocessed, partially processed, and processed materials. Micro Dirt estimated transportation costs of \$70/Load at 40 yds/Load and disposal at a landfill for \$10/yd. In addition, the contents of the surface impoundment would need to be disposed. This would amount to 17.96 acre-ft at \$3/1000 gallons. The total cost for these activities is estimated to be \$252,588. In addition, Micro Dirt will provide financial assurance for decontamination costs of equipment, process unit clean up, equipment and contaminated soil removal, the installation of a vegetative cover, and the consulting services by a third party to ensure closure costs is completed correctly, and a 10% contingency in excess of the cost estimate for a total of \$301,500.

The closure plan and associated cost estimate for financial assurance meet the requirements of the cited rules, and the amount of financial assurance required will be sufficient to properly close the Micro Dirt facility.

Comment 8: (Fire Protection)

Commenters state that Micro Dirt's application does not include provisions for adequate fire protection.

Response 8:

Composting Operations

Under 30 TAC § 332.47(7)(E), Micro Dirt is required to establish a fire prevention and control plan that complies with the local fire code, provisions for fire-fighting equipment, and special training requirements for fire-fighting personnel.

Under Micro Dirt's proposed Facility Inspections and Maintenance of its SOP, employees will inspect for water pressure and availability on a weekly basis. See SOP, p.7. Furthermore, any spilled materials will be captured, cleaned up, and pumped back into the tanks. To comply with these rules, Micro Dirt proposes the following actions:

1. Micro Dirt has proposed a plan whereby the local fire department will be informed of the location and the processes used at the facility. In addition, in case of a fire, staff will be available to guide emergency personnel through the facility to help them respond.
2. Although not required by the Chapter 332 rules, Micro Dirt has submitted information regarding the facility to Travis County Fire Rescue. Travis County Fire Rescue is the fire department serving southeast Travis County, where the Micro Dirt facility is located.
3. Micro Dirt will install Type ABC handheld fire extinguishers near the entrances of the composting areas.
4. The Fire Protection Plan requires all employees to be trained for fire protection purposes. Employees will be trained at the time of hire and with monthly updates as needed in fire prevention, fire protection, fire extinguisher use, and emergency response activities. *See SOP, p. 7.*
5. Micro Dirt will supply water under pressure for firefighting purposes via the retention pond, water recycling pumps, fire hose connections, and available portable fire hoses.
6. Micro Dirt also proposes to train their employees to prevent fires in the following manner:
 - a) Employees will be alert for signs of burning waste such as smoke, steam, or heat being released from incoming waste loads.
 - b) Employees will routinely clean equipment used to move waste with high pressure water or steam cleaners. The high pressure water or steam cleaning will remove combustible waste and caked material which can cause equipment overheating and increase fire potential.
 - c) Employees will prohibit smoking in the facility.
 - d) Employees will keep work areas clean and uncluttered.
 - e) Employees will keep all flammable materials in the appropriate areas.
 - f) Employees will become familiar with the Material Safety Data Sheets of process chemicals used at the facility.
 - g) Employees will immediately clean up of any grease type spills.
 - h) If a fire hazards exists, employees shall take immediate actions to abate such a nuisance.

Processing Operations

Under 30 TAC § 330.221, which establishes the fire protection standards for solid waste processing units, Micro Dirt is required to provide an adequate supply of water under pressure for firefighting purposes, firefighting equipment, training for employees to deal with fire issues, and to comply with local fire codes. Micro Dirt meets these requirements, as can be seen in the discussion above. In addition, all tanks and containers storing wastes and recovered material at the site will be enclosed or covered so that they do not constitute a fire hazard. *See SOP, p.28.* Although materials received for processing do contain grease products, the grease received is not volatile and is not considered flammable. The auto-ignition temperatures for cooking oils/greases are greater than 376°C, thereby negating the potentiality for any type of fire hazard. *Id.*

Conclusion

Based upon the above information Micro Dirt's fire protection plan meets the requirements of the TCEQ rules.

Comment 9:

Commenters are concerned about Micro Dirt's compliance history. Commenters requested that the TCEQ take Micro Dirt's prior alleged violations into consideration when processing the application. Commenters stated that if Micro Dirt violated the TCEQ's rules, Micro Dirt should be deemed ineligible for the permit. Commenters state that Micro Dirt has a poor compliance history which is not reflected in the compliance history report.

Response 9:

The TCEQ processes permit applications by determining whether applicants are in compliance with all relevant TCEQ rules and by considering their compliance history. Rule § 60.3 requires the TCEQ to consider a facility's compliance history when deciding whether to issue a permit. Micro Dirt has a compliance history rating of 3.01 and a classification of "average." Compliance history ratings below 0.10 mean that a facility complies with environmental regulations extremely well, ratings between 0.10–45.00 mean that a facility generally complies with environmental regulations, and ratings ranging from 45.01 or greater mean that a facility fails to comply with a significant portion of the relevant environmental regulations. The compliance history report that is being used by the Executive Director in the analysis of Micro Dirt's permit application complies with all of the requirements in 30 TAC Chapter 60, which establishes the TCEQ's compliance history procedures.

When the Executive Director makes a finding that a facility has operated in violation of the TCEQ rules, it issues either a Notice of Violation (NOV) or a Notice of Enforcement (NOE). Rule 30 TAC § 60.1(c)(7) mandates lowering a facility's compliance history when an NOV is issued. However, the rules do not authorize lowering of a facility's compliance history when an NOE is issued. An NOV was not issued in the pending enforcement proceeding against Micro Dirt regarding the unauthorized acceptance of 123 loads of grease trap waste. Instead, a Notice of Enforcement (NOE) was issued. Therefore, the compliance history for Micro Dirt will not reflect this alleged violation until there is a final order finding that Micro Dirt violated the TCEQ's rules. If there is a final order finding that Micro Dirt violated the TCEQ's rules, Micro Dirt's compliance history average will decreased according to the rules in Chapter 60.

Comment 10:

Commenters state that Micro Dirt had an order issued against it in 2008, ordering Micro Dirt to cease composting grease trap waste, which it failed to meet until TCEQ initiated an enforcement action against Micro Dirt. Commenters state that the mere fact that Micro Dirt has ceased composting grease trap waste is no reason to cease

enforcement actions against it. Commenters state that all considerations of Micro Dirt's registration and permit applications should cease until the enforcement action is settled. Commenter states that Micro Dirt may have continued to receive grease trap waste at its facility after the enforcement proceedings began.

Response 10:

No order was issued against Micro Dirt in 2008. Instead, as discussed in the previous comment, an NOE was filed for the purported acceptance of 123 loads of grease trap waste. Furthermore, enforcement proceedings for a purported violation of the TCEQ's rules are handled separately from and concurrently with the processing of a permit application. Therefore, the TCEQ is proceeding with an enforcement action against Micro Dirt for its purported violation. Likewise, the TCEQ will proceed with the pending permit application. If it is determined that Micro Dirt violated the TCEQ's rules, the violation will be reflected in the compliance history which may then affect future permitting, renewals, and facility investigations. If a final order is issued in the pending enforcement case before a final decision is made on this application, the TCEQ could consider that order in deciding what action to take on the application. The Enforcement Division of the TCEQ is aware of the information regarding the allegations that Micro Dirt received grease trap waste at its facility after the pending enforcement action began, and the Enforcement Division is considering whether to initiate a new enforcement proceeding against Micro Dirt.

Comment 11: (Odor and Vector Control for Processing Operation)

Commenters are concerned of odors and vectors coming from the processing facility.

Response 11:

The TCEQ rules for processing facilities in 30 TAC §§ 330.63(d)(1)(A) and 330.209 requires Micro Dirt to design and operate the facility in a manner to avoid causing nuisances such as odors and vectors. Vectors are agents such as insects, snakes, rodents, or other animals capable of mechanically or biologically transferring a pathogen from one organism to another. Under 30 TAC § 330.63(d)(1)(A), Micro Dirt is required to provide features for waste storage that will prevent the creation of nuisances, including odors and vectors. Under 30 TAC § 330.209, Micro Dirt is required to maintain liquid in an enclosed building, vessel, or container to control odors and vectors.

As part of their SOP, Micro Dirt states that all eight vessels will be totally enclosed and that the "...vent on top of the unit will be able to adapt a piping manifold to convey vented gases through an organic odor control unit process." See SOP, p. 29-30. The odor control unit will be utilized only when necessary to mitigate malodorous vent gases." Because all of the liquid waste in the processing units will be transferred to tanks by hoses, there is little likelihood that the materials will cause odor or attract vectors. However, under Micro Dirt's proposed Facility Inspections and Maintenance, if some liquid waste is spilled, the spills will be captured, cleaned up and pumped back

into the tanks. *See* SOP, p. 7. Furthermore, the processing area will be cleaned in case of spillage and all of the equipment will be washed twice a week or as needed. Finally, under the same plan, Micro Dirt employees will inspect the facility daily for odors. Micro Dirt's Site Operating Plan states that the facility will have a 50 foot buffer zone and a vegetative barrier which will serve to prevent odor and vector release. If a vector problem develops, a pest control service will be consulted and actions will be taken to eliminate any problem. *See* SOP, p. 28.

The applicant's proposed odor and vector control plans for the processing facility comply with 30 TAC §§ 330.63(d)(1)(A) and 330.209 and will provide protection against odors and vectors.

If Micro Dirt fails to follow its permit specifications or the rules, the TCEQ can initiate an enforcement action against Micro Dirt. As a consequence of an enforcement action, the TCEQ can assess administrative penalties against Micro Dirt, the TCEQ can require Micro Dirt to comply with its permit specifications and rules, and the TCEQ can suspend Micro Dirt's operations. TCEQ regional office inspectors have only received one complaint regarding nuisance odors coming from the existing Micro Dirt facility since 2006. During the investigations conducted on October 23, 2006, the investigators did not detect odors off site. TCEQ regional office inspectors have only conducted one investigation in response to a vector complaint since 2006. On November 4, 2008, TCEQ investigators conducted an on-site complaint investigation and found that some flies were present at the facility, but no more than at a typical composting facility. If members of the public detect unpleasant odors or vectors coming from the facility, they should contact the local TCEQ regional office so the source of the problem may be determined and addressed.

Comment 12: (Odor Control for Composting Operation)

Commenters are concerned about odors coming from the composting facility.

Response 12:

The TCEQ rules in 30 TAC §§ 332.8(e) and 332.47(7) establish the odor control standards for composting facilities. Under 30 TAC § 332.8(e)(6), Micro Dirt is required to conduct all activities which could result in increased odor emissions, such as turning of compost piles, in a manner that does not create nuisance conditions. Under 30 TAC § 332.47(7)(J), Micro Dirt is required to establish its operation guidelines for the minimization of odor in its SOP.

To comply with these rules, Micro Dirt proposes to accept all liquids that may create nuisance odors into the eight tanks and only extract them from the tanks when wood chips and other feedstock mixture are in a pile ready to accept liquids. Furthermore, tipping areas, where the composting materials are placed, will be inspected and cleaned every day to ensure cleanliness and odor control. *See* Micro Dirt Permit Application, p. 46. Micro Dirt also proposes to turn compost piles that are producing odors with a large front-end loader to eliminate odor. *See* Micro Dirt Permit Application, p. 47. Under Micro Dirt's SOP's Facility Inspections and Maintenance, Micro Dirt employees will inspect the facility daily for odors. *See* SOP, p.7. Micro Dirt's

SOP also states that the facility will have a 50 foot buffer zone and a vegetative barrier which will reduce the possibility of potential odors exiting the facility.

Furthermore, under 30 TAC § 332.8(e)(2), Micro Dirt is required to mix materials with a high odor potential such as, but not limited to, dairy material feedstocks, sewage sludge, meat, fish, oil and grease feedstocks, grease trap waste, and municipal solid waste with an adequate volume of bulking material to blend with or cover the material in a manner that prevents nuisances.

If Micro Dirt fails to follow its permit specifications or the rules, the TCEQ can initiate an enforcement action against Micro Dirt. As a consequence of an enforcement action, the TCEQ can assess administrative penalties against Micro Dirt, require Micro Dirt to comply with its permit specifications, and suspend Micro Dirt's operations until the nuisance is abated. TCEQ regional office inspectors have only received one complaint regarding nuisance odors coming from the existing Micro Dirt facility since 2006. During the investigations conducted on October 23, 2006, the investigators did not detect odors off site. If members of the public detect unpleasant odors or vectors coming from the facility, they should contact the local TCEQ regional office so the source of the problem may be determined and addressed.

After a thorough review of the submission, MSW Permits Section staff determined that the applicant's proposed odor control plans for the composting facility comply with 30 TAC §§ 332.8(e) and 332.47(7) and will provide protection against odors.

Comment 13: (Vector Control for Composting Operation)

Commenters are concerned of vectors coming from the composting facility.

Response 13:

Under 30 TAC § 332.47(7)(G), Micro Dirt is required to establish its operation guidelines for the control of vectors in its SOP. To comply with these rules, Micro Dirt proposes the following actions. First, if a vector problem develops, a pest control service will be consulted and actions will be taken to eliminate the problem. *See* SOP, p. 28. Second, if the facility receives waste quantities that cannot be processed within such time as will preclude insect breeding or the harborage of other vectors, additional waste will not be accepted until the problem conditions are abated. *See* SOP, p. 45. Third, piles of compost will be turned with a front-end loader on a regular basis to prevent flies and other insects from laying their eggs in the surface of the compost piles and to prevent any attraction of vectors.

TCEQ regional office inspectors have only conducted one investigation in response to a vector complaint at the existing facility. On November 4, 2008, TCEQ investigators conducted an on-site complaint investigation and found that some flies were present at the facility, but no more than at a typical composting facility. If members of the public detect unpleasant odors or vectors coming from the facility, they should contact the local TCEQ regional office so they can determine the source of the problem and work toward addressing it. If Micro Dirt fails to follow its permit specifications or rules, the TCEQ can initiate an enforcement action against Micro Dirt. As a consequence of an enforcement action, the TCEQ can assess administrative

penalties against Micro Dirt, the TCEQ can require Micro Dirt to comply with its permit specifications or rules, the TCEQ can suspend Micro Dirt's operations.

After a thorough review of Micro Dirt's submission for vector control, MSW Permits Section staff determined that the plan provided by Micro Dirt meets the requirements of the cited rule.

Comment 14: (Noise)

Commenters state that the application contains insufficient designs for noise pollution control.

Response 14:

The TCEQ's rules do not provide for considering noise pollution when determining whether to approve or deny a permit application for a liquid waste processing facility or for a composting facility.

Micro Dirt's SOP states that the facility is isolated as it has a 50 foot buffer zone and a vegetative barrier. Furthermore, Micro Dirt claims that the pumping of fluids is not very noisy and that the trucks entering and exiting the facility are expected to produce no more than typical vehicular sounds. See SOP, p. 31.

Comment 15: (Traffic)

Commenters state that they are concerned that traffic generated by the Micro Dirt facility will cause structural damage to the roads, create hazardous traffic conditions, and will leave debris on the roads.

Response 15:

The rules require the TCEQ to consider the following traffic patterns as part of its determination regarding whether to issue permits for municipal solid waste processing facilities and composting facilities.

Processing Facility

Rule § 330.61(i) establishes the traffic information to be provided by applicants to be considered by the TCEQ. Under 30 TAC § 330.61(i)(1), Micro Dirt is required to provide data on the availability and adequacy of roads that will be used to access the site. In Part I of Micro Dirt's application, Micro Dirt states that the facility can be accessed via Williamson Road, which turns onto Goforth Road. Williamson Road is a two lane, 23 foot wide paved road designed to withstand heavy truck traffic. Goforth Road is a two-lane, 21-foot-wide paved road also capable of withstanding heavy truck traffic. Under 30 TAC § 330.61(i)(2), Micro Dirt is required to provide data on the volume of vehicular traffic on access roads within one mile of the proposed facility. Micro Dirt provided traffic counts performed by the Texas Department of Transportation (TxDOT) in 2004 and 2005 for the relevant area. On average, a total of about 250 to 500 vehicles per day travel on Williamson Road. However, only about 10

vehicles per day travel on Goforth Road, the road by the Micro Dirt facility site. Under 30 TAC § 330.61(i)(3), Micro Dirt is required to project the volume of traffic expected to be generated by the facility within one mile of the proposed facility. The additional traffic that would be generated by the proposed facility for composting and grease trap waste processing is considered insignificant and calculations indicate a maximum increase in traffic load of 6 to 10 vehicles per day, if the facility reaches full operating potential. Under 30 TAC § 330.61(i)(4), Micro Dirt is required to provide documentation of coordination with TxDOT. In a letter dated July 3, 2009, TxDOT stated that the traffic counts used in the application submitted to the TCEQ are considered reasonable and that projected traffic impacts from the facility are expected to be negligible. Although Micro Dirt's operation is not subject to 30 TAC § 330.61(i)(5), which applies to landfills, Micro Dirt contacted the Federal Aviation Administration (FAA) for compliance with airport location restrictions. A letter from the FAA, dated June 17, 2009, stated that FAA had no objections to the facility's operations.

Composting Facility

Rule § 332.47(5) establishes the traffic information to be provided by composting applications to be considered by the TCEQ. Under 30 TAC § 332.47(5)(A), Micro Dirt is required to provide data on the availability and adequacy of roads that will be used to access the site. Please refer to the discussion regarding 30 TAC § 330.61(i)(1) above for Micro Dirt's answer. Under 30 TAC § 332.47(5)(B), Micro Dirt is required to submit data on the volume of traffic within one mile of the proposed facility. Please refer to the discussion regarding 30 TAC § 330.61(i)(2) above for Micro Dirt's answer. Under 30 TAC § 332.47(5)(C), Micro Dirt is required to provide an analysis of the impact the facility will have on the area roadway system. Micro Dirt has indicated that the additional traffic that would be generated by the proposed facility is considered insignificant and TxDOT, in a letter dated July 3, 2009, agreed that projected traffic impacts from the facility are expected to be negligible. Under 30 TAC § 332.47(5)(D), Micro Dirt was required to submit an access roadway map showing all area roadways within a mile of the facility. This document is in Appendix A, Access Roadway Map, of Micro Dirt's application.

Conclusion

Micro Dirt's permit application provides the information required by the TCEQ's rules. The application identifies traffic patterns as well as the pertinent access roads, weight capacities, and their size. In addition, in compliance with 30 TAC § 330.235, which regulates materials along the route to the facility and accidental spillage, Micro Dirt will perform once-per-day cleanups of waste materials spilled along and within the right of way of public access roads serving the facility for a distance of two miles in either direction from any entrances used to deliver materials to the facility. Furthermore, vehicles hauling waste to the facility shall be enclosed or provide other means to effectively secure the load in order to prevent the escape of any part of the load. Finally, each manifested load will be checked to compare the amount of waste unloaded to the amount listed on the manifest. Micro Dirt will report the violators that

provide manifests that do not match. They will be reported to the TCEQ and other appropriate law enforcement department(s). See SOP, p. 42.

Based upon the above information, TCEQ staff determined that Micro Dirt submitted adequate details of traffic patterns related to the facility and has established a satisfactory plan to remove debris left on the roads. The traffic information provided indicates that the access roads are adequate to handle traffic from the facility.

Comment 16:

Commenters submit that the proposed operations at the facility will create adverse air quality impacts.

Response 16:

Micro Dirt is required to obtain an air quality authorization in order to compost grease trap waste and process liquid wastes under this permit. The rules in Chapter 332 authorize issuing an air quality standard permit if the requirements of 30 TAC § 332.8(e) are met. Likewise, the rules in Chapter 330 authorize issuing an air quality standard permit if the requirements of 30 TAC § 330.245 are met.

Micro Dirt will be required to demonstrate compliance with the requirements of §§ 332.8(8)(e) and 330.245 in order to operate its facility under the permit. If Micro Dirt cannot meet the requirements of §§ 332.8(8)(e) and 330.245, Micro Dirt will need to obtain an air permit authorization under permits by rule (Chapter 106) for minor sources (less than 25 ton per year of VOC) or New Source Review permits under Chapter 116 for sources greater than 25 tons per year. Therefore, Micro Dirt is subject to obtaining an applicable air authorization independent of obtaining a waste composting authorization.

Comment 17: (Waste Acceptance)

Commenters state the waste acceptance plan will be insufficient to restrict prohibited materials from entering the facility and that Micro Dirt's proposed operations will not comply with end-product testing standards.

Response 17:

Micro Dirt will be limited to accept those wastes that are authorized by the permit. The authorized wastes are "limited to municipal sludge, septage, grease trap waste, source separated yard and tree trimmings, wood chips, paper, cardboard, clean wood, positively-sorted organic material, source separated organic material, agricultural waste and materials, dead animals, expired food wastes, dairy materials, manure and vegetative food waste including class 2 industrial food preparation waste and non-hazardous industrial solid waste as detailed in 30 TAC § 332.4(10)." See Draft Permit 2361, Section II(B). Rule § 332.4(10) authorizes the composting of nonhazardous dead animal carcasses, clean wood material, vegetative material, paper, manure (including paunch manure), meat feedstocks, fish feedstocks, dairy material feedstocks, yard trimmings, and oils and greases. *Id.*

Under 30 TAC §§ 332.47(7)(A), (B), and (D), the waste acceptance rules for composting facilities, Micro Dirt is required to establish its operational guidelines for personnel to screen for unprocessable or unauthorized material and operate the facility in conformance with the design and operational standards established by the permit. Under 30 TAC § 330.203, the waste acceptance rules for processing facilities, Micro Dirt is required to “identify the sources and characteristics of wastes (e.g., residential, commercial, grease trap, grit trap, sludges, septage, special wastes, Class 1, Class 2, or Class 3 industrial solid wastes, compost feedstocks) proposed to be received for storage or processing.”

Under Section II(B) and (C) of Micro Dirt’s Draft Permit 2361, Micro Dirt is prohibited from accepting any other wastes besides those listed in paragraph 1, above. Micro Dirt proposes several procedures and safeguards in its SOP and Waste Acceptance Plan to meet the rule requirements above and properly screen and reject prohibited materials from the Micro Dirt facility by enacting the following procedures: First, staff will be instructed to refuse incoming loads if it is suspected or confirmed of containing an unauthorized, unknown, or hazardous waste. *See Application, p. 26.* Second, staff will be instructed to deny unloading of any trucks if discrepancies are found on the waste manifest. *Id.* To find these discrepancies, Micro Dirt is planning to assess a random sample program that will include testing of the pH of the waste to determine if the pH of the truck’s material is consistent with the type of waste that is listed on the manifest. In addition, Micro Dirt will verify that the volume of waste in the truck is consistent with the volume specified on the accompanying manifest. *Id.* Furthermore, staff will be trained to inspect the wastes for unusual odor and other characteristics indicating the presence of materials such as solvents. Staff will be trained to reject those loads. *See SOP, p. 49.*

Facility personnel will be trained to inspect vehicles and identify regulated hazardous waste, polychlorinated biphenyl (PCB) waste, and other prohibited wastes. At a minimum, the attendant and equipment operators will be trained in inspection procedures for prohibited waste. Facility personnel will be trained on an on-the-job basis by their supervisors. Records of employee training on prohibited waste control procedures will be maintained in the facility operating record. Facility personnel will be trained to look for the indications of prohibited waste such as:

- Yellow hazardous waste or PCB labels
- DOT hazard placards or markings
- Liquids with strong chemical odors
- 55-gallon drums
- 85-gallon over-pack drums
- Powders or dusts
- Odors or chemical fumes
- Bright or unusual colored wastes
- Sludges
- Radioactive wastes
- Unidentifiable wastes
- Regulated Hazardous Waste
- Do it yourself used motor vehicle oil
- Medical Wastes - treated or untreated

Personnel have the authority and responsibility to reject unauthorized loads, have unauthorized material removed by the transporter, and/or assess appropriate surcharges, or have the unauthorized material removed by on-site personnel and otherwise properly managed by the facility. See SOP, p. 23.

Waste Analysis

Under 30 TAC §330.203(c)(2), the waste analysis rules for processing facilities, Micro Dirt is required to perform annual analyses of wastes received for benzene, lead, and total petroleum hydrocarbons (TPH). At a minimum, effluent from the facility must be analyzed annually for TPH, fats, oil and grease, and pH. Records of each analysis shall be maintained at the facility for a minimum of three years. All sampling and analysis shall be done according to EPA-approved methods. Micro Dirt plans to comply with this by analyzing the waste in the tanks annually by taking samples of grease from the processing tanks to test for benzene, lead, TPH, oil and grease, pH, and other agents. Furthermore, the sampling and analysis will be done according to EPA-approved methods. Records of these tests will be retained for three years. See SOP, p. 49.

Under 30 TAC §§ 332.71 and 332.72, the waste analysis rules for composting facilities, requires Micro Dirt to test the final compost in accordance with the Solvita Compost Maturity Test, which is capable of classifying compost into the following maturity grades: Grade 1, Grade 2 and Waste Grade Compost on a monthly basis. Micro Dirt's proposed product sampling and analysis plan in Appendix G details the use of the Solvita Compost Maturity Test. The plan specifies a monthly sampling protocol that has to be submitted to the Executive Director on a monthly basis as required by 30 TAC §§ 332.43 and 332.71(j)(1). If the proposed facility does not meet the requirements described above, Micro Dirt will be in violation of TCEQ's rules and subject to enforcement.

Conclusion

Based on the above information, TCEQ staff determined that Micro Dirt's waste acceptance plan and end-product testing standards are adequate to screen the materials to prevent the receipt of unauthorized materials.

Comment 18:

Commenter commends Micro Dirt for composting waste that would otherwise have to be disposed of in a municipal solid landfill or be treated in a wastewater plant, since some of the waste from such wastewater plant would allegedly be released into the Colorado River. Likewise, commenter commended Micro Dirt for composting used wood pieces rather than burning them, which would create more carbon dioxide.

Response 18:

The TCEQ acknowledges the statements from the commenter. The TCEQ agrees that properly regulated composting activities provide environmental benefits.

Comment 19:

Commenter states his belief that local and state elected representatives either do not know or do not have sufficient incentives to care about the problems posed by Micro Dirt. Commenter encourages the public to become more aware of local issues, to become active in their communities, and to mail letters to their representatives and senators voicing opposition to Micro Dirt's application.

Response 19:

State law and TCEQ rules require notice of a permit application to be mailed to local and state officials. The mayor, the county judge, the state representative, and the state senator representing the area where the facility is located received multiple notices regarding this permit application. The TCEQ encourages public participation in all of its facility authorization processes and welcomes the participation of all affected and interested persons in the TCEQ's administrative, technical, and deliberative review processes.

Comment 20:

Commenters are concerned that the constant public meetings that Micro Dirt has had to host are due to a competitor's attempt to prevent Micro Dirt from obtaining a permit to compost grease trap waste.

Response 20:

The TCEQ acknowledges the comment.

Comment 21: (Surface Impoundment Berm)

Commenters are concerned about the integrity of the surface impoundment's berm.

Response 21:

Rules §§ 330.207 and 332.47(6)(A), cited in comments 5 and 2 regarding the prevention of groundwater pollution for the processing operations and composting operations, require Micro Dirt to preserve the integrity of the surface impoundment's berm. This means that Micro Dirt must maintain the integrity of the berms, or surface perimeter of the surface impoundment as it is designed in the application. Micro Dirt must preserve the surface impoundment's total capacity of 5.85 million gallons, its freeboard capacity of 2.78 million gallons, and its design parameters. To do this, Micro Dirt must prevent the silting and erosion of the berm surrounding the surface impoundment.

The design, function, and capacity of the surface impoundment must be maintained to ensure that contaminated water does not overtop the sidewall liner embankment. Erosion or a breach in the surface impoundment's perimeter is

considered a violation under 30 TAC §§ 330.207 and 332.47(6)(A). In its permit application, Micro Dirt states that the berm surrounding the site provides protection against surface water pollution. Micro Dirt adds that a protective vegetative cover will be installed on the berm along the facility's perimeter to minimize erosion of the berm. Furthermore, Micro Dirt states that the perimeter berm will be maintained in a stable vegetated condition and will be monitored to identify any possible deterioration of the berm. *See Permit Application, p. 37.*

If Micro Dirt fails to follow its permit specifications or the criteria established by the TCEQ rules and Micro Dirt's application, the TCEQ can initiate an enforcement action against Micro Dirt. As a consequence of an enforcement action, the TCEQ can assess administrative penalties against Micro Dirt, the TCEQ can require Micro Dirt to comply with its permit specifications, and the TCEQ can suspend Micro Dirt's operations. If members of the public detect surface water leaking from the Micro Dirt facility, they should contact the local TCEQ regional office so they can determine the source of the problem and work toward remediating the problem.

After a thorough review of the submission, MSW Permits Section staff determined that the applicant's berm control plan for the surface impoundment of the processing facility and composting facility comply with 30 TAC §§ 330.207 and 332.47(6)(A) and, if followed properly, will provide protection against surface water pollution.

III. Changes In Draft Permit

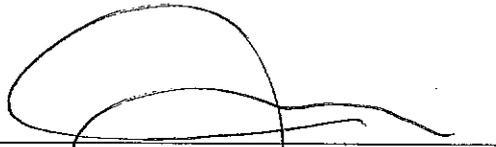
No changes were made to the Draft Permit in Response to Comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

A handwritten signature in black ink, appearing to read 'Jose Caso', is written over a horizontal line. The signature is stylized with a large loop and a long tail.

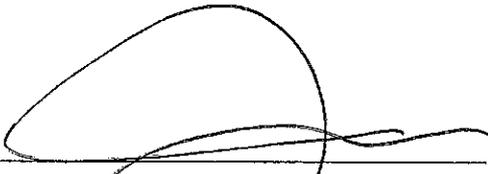
Jose Caso, Staff Attorney
Environmental Law Division

State Bar No. 24065018
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-4309
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Certificate of Service

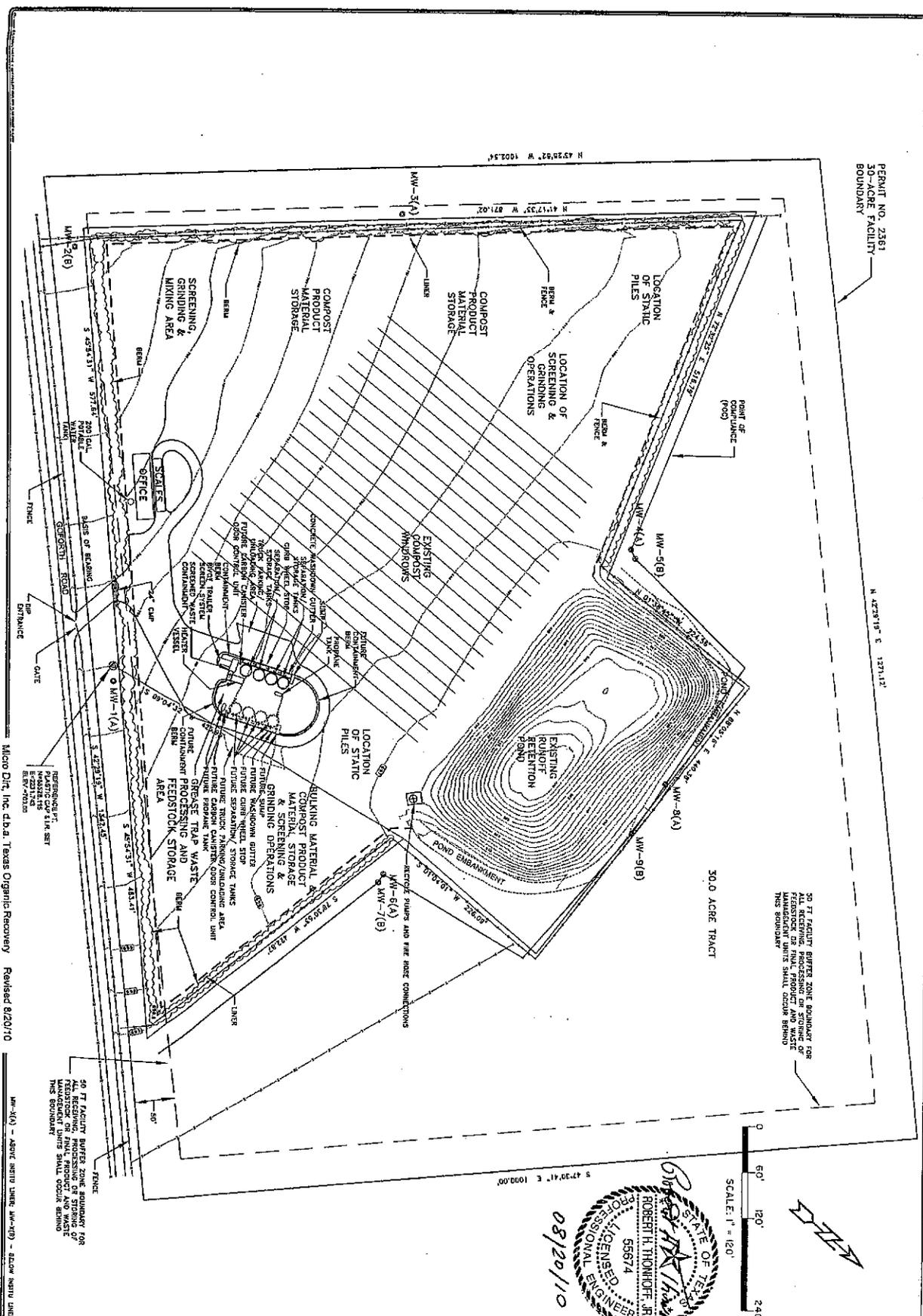
I certify that on May 10, 2011, the "Executive Director's Response to Public Comment" for Municipal Solid Waste Permit No. 2361 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



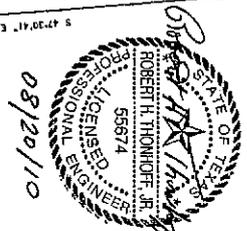
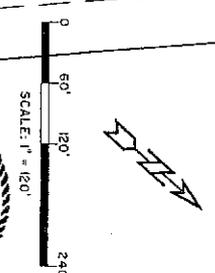
Jose Caso, Staff Attorney
Environmental Law Division
State Bar No. 24065018
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-4309
Fax: (512) 239-0606

Attachment A

Proposed Facility Site Plan
Appendix G, Page 3



30 FT FACILITY BUFFER ZONE BOUNDARY FOR ALL RECEIVING, PROCESSING OR STORAGE OF FEEDSTOCK, FINAL PRODUCT AND WASTE THIS BOUNDARY

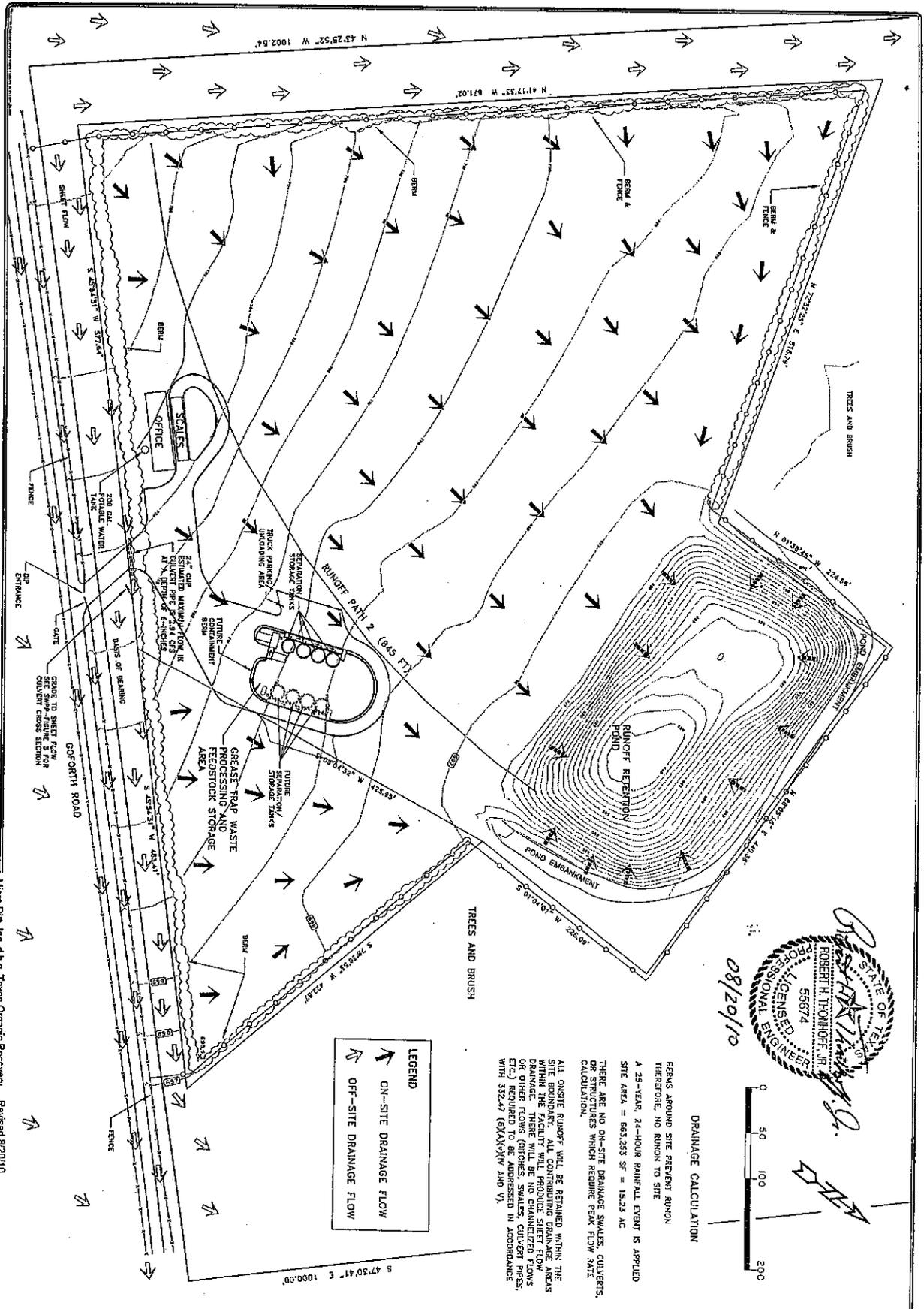


Mico Dri, Inc. d.b.a. Texas Organic Recovery - Revised 8/20/10
 Compost and Grease Trap Waste Processing Permit Application
 Appendix G

<p>FIGURE III - 3 TEXAS ORGANIC RECOVERY TYPE V MSW FACILITY</p>		<p>TCE THONHOFF CONSULTING ENGINEERS, INC. MUNICIPAL • ENVIRONMENTAL • WATER & WASTEWATER 1000 CAPITAL OF TEXAS DRIVE, SUITE 7-215 AUSTIN, TEXAS 78766 (512) 336-8100 FAX (512) 336-8999</p>	<p>REVISION</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	DESCRIPTION			
NO.	DATE			DESCRIPTION					
<p>PROPOSED FACILITY SITE PLAN</p>		<p>DATE: 08/10/10</p>							

Attachment B

On-Site Drainage Map
Appendix H, Page 7

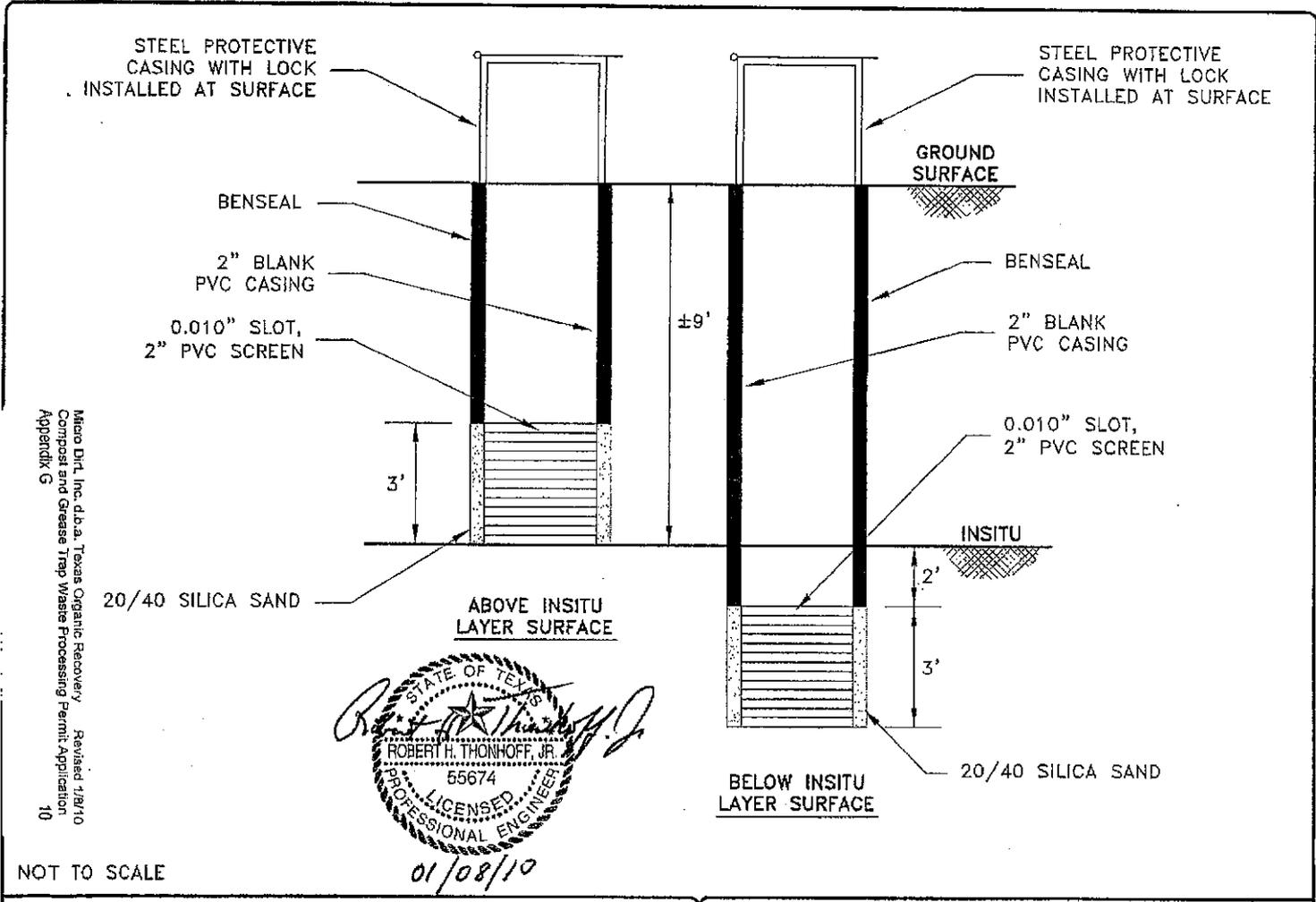


Mico Dirt, Inc. db.a. Texas Organic Recovery Revised 8/20/10
 Compost and Grease Trap Waste Processing Permit Application
 Appendix H

TEXAS ORGANIC RECOVERY COMPOST FACILITY		TCE TRONHOFF CONSULTING ENGINEERS, INC. MUNICIPAL - ENVIRONMENTAL - WATER & WASTEWATER <small>PERM REGISTRATION NO. P-000961</small>		1801 1511 1512 1513 1514 1515 1516 1517 1518 1519 1520 1521 1522 1523 1524 1525 1526 1527 1528 1529 1530 1531 1532 1533 1534 1535 1536 1537 1538 1539 1540 1541 1542 1543 1544 1545 1546 1547 1548 1549 1550 1551 1552 1553 1554 1555 1556 1557 1558 1559 1560 1561 1562 1563 1564 1565 1566 1567 1568 1569 1570 1571 1572 1573 1574 1575 1576 1577 1578 1579 1580 1581 1582 1583 1584 1585 1586 1587 1588 1589 1590 1591 1592 1593 1594 1595 1596 1597 1598 1599 1600 1601 1602 1603 1604 1605 1606 1607 1608 1609 1610 1611 1612 1613 1614 1615 1616 1617 1618 1619 1620 1621 1622 1623 1624 1625 1626 1627 1628 1629 1630 1631 1632 1633 1634 1635 1636 1637 1638 1639 1640 1641 1642 1643 1644 1645 1646 1647 1648 1649 1650 1651 1652 1653 1654 1655 1656 1657 1658 1659 1660 1661 1662 1663 1664 1665 1666 1667 1668 1669 1670 1671 1672 1673 1674 1675 1676 1677 1678 1679 1680 1681 1682 1683 1684 1685 1686 1687 1688 1689 1690 1691 1692 1693 1694 1695 1696 1697 1698 1699 1700 1701 1702 1703 1704 1705 1706 1707 1708 1709 1710 1711 1712 1713 1714 1715 1716 1717 1718 1719 1720 1721 1722 1723 1724 1725 1726 1727 1728 1729 1730 1731 1732 1733 1734 1735 1736 1737 1738 1739 1740 1741 1742 1743 1744 1745 1746 1747 1748 1749 1750 1751 1752 1753 1754 1755 1756 1757 1758 1759 1760 1761 1762 1763 1764 1765 1766 1767 1768 1769 1770 1771 1772 1773 1774 1775 1776 1777 1778 1779 1780 1781 1782 1783 1784 1785 1786 1787 1788 1789 1790 1791 1792 1793 1794 1795 1796 1797 1798 1799 1800 1801 1802 1803 1804 1805 1806 1807 1808 1809 1810 1811 1812 1813 1814 1815 1816 1817 1818 1819 1820 1821 1822 1823 1824 1825 1826 1827 1828 1829 1830 1831 1832 1833 1834 1835 1836 1837 1838 1839 1840 1841 1842 1843 1844 1845 1846 1847 1848 1849 1850 1851 1852 1853 1854 1855 1856 1857 1858 1859 1860 1861 1862 1863 1864 1865 1866 1867 1868 1869 1870 1871 1872 1873 1874 1875 1876 1877 1878 1879 1880 1881 1882 1883 1884 1885 1886 1887 1888 1889 1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946 1947 1948 1949 1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010
SWPP - FIGURE 5B ON-SITE DRAINAGE MAP (POST CONSTRUCTION)		1801 1802 1803 1804 1805 1806 1807 1808 1809 1810 1811 1812 1813 1814 1815 1816 1817 1818 1819 1820 1821 1822 1823 1824 1825 1826 1827 1828 1829 1830 1831 1832 1833 1834 1835 1836 1837 1838 1839 1840 1841 1842 1843 1844 1845 1846 1847 1848 1849 1850 1851 1852 1853 1854 1855 1856 1857 1858 1859 1860 1861 1862 1863 1864 1865 1866 1867 1868 1869 1870 1871 1872 1873 1874 1875 1876 1877 1878 1879 1880 1881 1882 1883 1884 1885 1886 1887 1888 1889 1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946 1947 1948 1949 1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010		

Attachment C

Monitoring Well Design
Appendix G, Page 10



Micro Dirt, Inc. dba, Texas Organic Recovery Revised 1/18/10
 Compost and Grease Trap Waste Processing Permit Application
 Appendix G 10

ROBERT H. THONHOFF, JR.
 55674
 LICENSED PROFESSIONAL ENGINEER
 01/08/10

NOT TO SCALE

FIGURE III - 8
TEXAS ORGANIC RECOVERY
TYPE V MSW FACILITY
MONITORING WELL DESIGN



THONHOFF CONSULTING ENGINEERS, INC.
 MUNICIPAL • ENVIRONMENTAL • WATER & WASTEWATER
 FIRM REGISTRATION NO. F-002921