Bryan W. Shaw, Ph.D., *Chairman*
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

July 25, 2011

Melissa Chao, Acting Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711

Re: Executive Director's Response to Hearing Requests and Requests for Reconsideration
TCEQ Docket No.: 2011-1071-MSW
Ruffino Hills Transfer Station, L.P.

Dear Ms. Chao

Enclosed for filing is the original and (7) copies of the Executive Director's Response to Hearing Requests and Requests for Reconsideration regarding: Ruffino Hills Transfer Station, L.P.

If you have any questions, please contact me at (512) 239-3668.

Sincerely,

Dan Ingersoll
Staff Attorney
Environmental Law Division, MC 173

Cc: service list

TCEQ DOCKET NO. 2011-1071 MSW

APPLICATION BY RUFFINO HILLS TRANSFER STATION, L.P. FOR MAJOR AMENDMENT TO PERMIT NO. 1355A	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

Executive Director's Response to Hearing Requests and Requests for Reconsideration

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Requests and Requests for Reconsideration (Response) on the application of Ruffino Hills Transfer Station, L.P. (the Applicant) for a major amendment to Municipal Solid Waste (MSW) Permit No. 1355. The Coalition Against Ruffino Trash Transfer Station (CARTTS) submitted a hearing request on behalf of members living in several neighborhoods near the facility. The Glenshire Community Association (GCA) submitted three hearing requests on behalf of its members in the Glenshire neighborhood. Mehmet Okumus submitted a hearing request on behalf of the Raindrop Turkish House. Elaine Gaskamp submitted a hearing request on behalf of the Greater Fondren Southwest Super Neighborhood #36 (Greater Fondren). Finally, Mike Bercu submitted a hearing request on behalf of Braeburn Valley West Subdivision (Braeburn Valley).

In addition to the hearing requests, the Office of the Chief Clerk received requests for reconsideration from Virgil W. Fivecoate and Howard Plotkin.

Attached for Commission consideration are the following:

Attachment A – GIS Map
Attachment B – Affected Landowner's Map & Affected Landowner's List
Attachment C – Compliance History
Attachment D – Technical Summary and Draft Permit
Attachment E – Executive Director's Response to Public Comment

II. Description of the Facility

The Ruffino Hills Transfer Station is located on a 14.18-acre tract located in Harris County, approximately 2,400 feet southeast of the intersection of U.S. Highway 59 and the Sam Houston Tollway/Beltway 8 on Ruffino Road. The transfer station is a Type V municipal solid waste facility with a maximum waste transfer capacity of 850 tons per day (TPD). Currently the operating hours at the facility are from 5:00 am to 9:00 pm, Monday through Friday, and from 6:00 am to 8:00 pm, Saturday and Sunday, with waste acceptance hours from 7:00 am to 7:00 pm, Monday through Friday, and 8:00 am through 5:00 pm, Saturday and Sunday. If approved, the proposed amendment would increase the maximum capacity of the transfer station to 2,000 TPD, and establish operating hours from 3:00 am to 9:00 pm, seven days a week, with waste acceptance from 3:00 am to 7:00 pm, seven days a week. The Applicant would be allowed to store and process solid waste resulting from or incidental to municipal, community, institutional, and recreational activities, including garbage, putrescible waste, rubbish, ashes, brush, street cleaning waste, abandoned automobiles, and Class 2 and Class 3 industrial solid waste. The Applicant would not be authorized to accept hazardous waste, Class 1 non-hazardous industrial solid waste, regulated asbestos-containing materials, liquid waste, special waste other than Class 2 and Class 3 industrial solid waste, or any other prohibited waste as listed in Parts I/II, Section 3.1.1 of the Application.

III. Procedural Background

The Application was submitted on March 14, 2008, and declared administratively complete on April 16, 2008. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment was published on May 2, 2008, in the *Houston Chronicle,* and in Spanish on May 11, 2008, in the *Semana News*. The Executive Director completed the technical review of the Application on August 20, 2010, and prepared a draft permit. The Notice of Application and Preliminary Decision for Municipal Solid Waste Permit Amendment was published on October 15, 2010, in the *Houston Chronicle,* and in Spanish on October 14, 2010, in *La Informatión*. The Notice of Public Meeting was published on March 4, 2011; March 11, 2011; and March

18, 2011 in the *Houston Chronicle*. A public meeting was held on March 24, 2011, at the Holiday Inn – Southwest Houston, 11160 Southwest Freeway, Houston, Texas. The comment period for this application closed on March 24, 2011. The Executive Director's Response to Public Comment (RTC) was filed on May 24, 2011. The Executive Director's Final Decision Letter was mailed on May 27, 2011, and the period for filing a Request for Reconsideration or Contested Case Hearing ended on June 27, 2011. 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.

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The application was declared administratively complete on July 24, 2007 therefore it is subject to the procedural requirement of HB 801.

A. Response to Request

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

a) whether the requestor is an affected person;

b) whether issues raised in the hearing request are disputed;

c) whether the dispute involves questions of fact or of law;

d) whether the issues were raised during the public comment period;

e) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;

f) whether the issues are relevant and material to the decision on the application; and

g) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

> A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided...and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

a) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible fax number, who shall be responsible for receiving all official communications and documents for the group;

b) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a matter not common to members of the general public;

c) request a contested case hearing;

d) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's response to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and

e) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

C. "Affected Person" Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected person." Section 55.203 sets out who may be considered an affected person.

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.

b) Governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:

1) whether the interest claimed is one protected by the law under which the application will be considered;

2) distance restrictions or other limitations imposed by law on the affected interest;

3) whether a reasonable relationship exists between the interest claimed and the activity regulated;

4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;

5) likely impact of the regulated activity on the 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.

30 TAC § 50.203.

A group or association may also request a contested case hearing. In order for a group or association to request a contested case hearing, the group or association must show that it meets the following requirements:

a) one or more members of the group or association would otherwise have standing to request a hearing in their own right;

b) the interests the group or association seeks to protect are germane to the organization's purpose; and

c) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205(a). In addition the Executive Director, Public Interest Counsel, or the Applicant may request that a group or association provide an explanation of how the group or association meets the above requirements. 30 TAC § 55.205(b).

D. Referral to the State Office of Administrative Hearings (SOAH)

When the Commission grants a request for a contested case hearing, they are required to issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing. 30 TAC § 50.115(b). Subsection 50.115(c) sets out the test for determining whether an issue may be referred to SOAH. "The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: 1) involves a disputed question of fact; 2) was raised during the public comment period; and 3) is relevant and material to the decision on the application." 30 TAC § 50.115(c).

V. Analysis of the Requests

A. Analysis of the Hearing Requests

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, who qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

1. Whether the Requestors Complied with 30 TAC §§ 55.201(c) and (d)

a. Coalition Against Ruffino Trash Transfer Station (CARTTS)

The public comment period for this permit application ended on March 24, 2011. The period for timely filing a request for a contested case hearing on this permit application ended on June 27, 2011. The Office of the Chief Clerk received CARTTS's hearing request at 8:33 a.m. on June 27, 2011. Although CARTTS did not submit comments before the close of the comment period, the request included issues already raised by others during the comment period, and expressly incorporated by reference. The hearing request provided: 1) the requestor's names, address, daytime phone number, 2) requested a contested case hearing, 3) identified their personal justiciable interest as detailed below, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., nuisance odor, noise, and traffic concerns). The group also identified one person, Lawrence Dunbar, as their representative for purposes of receiving official communications and documents.

The Executive Director recommends that the Commission find that ***CARTTS's*** *hearing request* ***substantially complied*** *with the requirements of 30 TAC §§ 55.201(c) and (d).*

b. Glenshire Community Association (GCA)

The public comment period for this permit application ended on March 24, 2011. The period for timely filing a request for a contested case hearing on this permit application ended on June 27, 2011. The Office of the Chief Clerk received three hearing

requests from GCA: one June 5, 2008; two identical requests on September 28, 2010 and September 30, 2010; and one final request 7:37 a.m. on June 27, 2011. The hearing request provided: 1) the requestor's names, address, daytime phone number, 2) requested a contested case hearing, 3) identified their personal justiciable interest as detailed below, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., nuisance odor, noise, and traffic concerns). The group also identified one person, Lawrence Dunbar, as their representative for purposes of receiving official communications and documents.

The Executive Director recommends that the Commission find that ***GCA's*** *hearing request* ***substantially complied*** *with the requirements of 30 TAC §§ 55.201(c) and (d).*

c. Raindrop Turkish House

The public comment period for this permit application ended on March 24, 2011. The period for timely filing a request for a contested case hearing on this permit application ended on June 27, 2011. The Office of the Chief Clerk received Raindrop Turkish House's hearing request on October 7, 2010. The hearing request provided: 1) the requestor's names, address, daytime phone number, 2) requested a contested case hearing, 3) identified their personal justiciable interest as detailed below, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., nuisance odor and traffic concerns).

The Executive Director recommends that the Commission find that ***Raindrop Turkish House's*** *hearing request* ***substantially complied*** *with the requirements of 30 TAC § 55.201(c) and (d).*

d. Greater Fondren Southwest Super Neighborhood #36

Greater Fondren did not substantially comply with the requirements of 30 TAC §§ 55.201(c) and (d) because they did not successfully identify a personal, justiciable interest in the proposed activity. The public comment period for this permit application

ended on March 24, 2011. The period for timely filing a request for a contested case hearing on this permit application ended on June 27, 2011. The Office of the Chief Clerk received Greater Fondren's hearing request on June 5, 2008. The hearing request provided: 1) the requestor's names, address, daytime phone number, 2) requested a contested case hearing, and 3) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e. traffic concerns). The group also identified one person, Elaine Gaskamp, as their representative for purposes of receiving official communications and documents. However, as detailed below, Greater Fondren did not provide sufficient information to establish group standing because they did not identify an individual member who would otherwise have standing to request a hearing in their own right. As a consequence, Greater Fondren did not show that any one member of its group had a personal justiciable interest in the proposed activity.

The Executive Director recommends that the Commission find that ***Greater Fondren's*** *hearing request* ***did not substantially comply*** *with the requirements of 30 TAC §§ 55.201(c) and (d).*

e. Braeburn Valley West Subdivision

The public comment period for this permit application ended on March 24, 2011. The period for timely filing a request for a contested case hearing on this permit application ended on June 27, 2011. The Office of the Chief Clerk received Braeburn Valley's hearing request on September 13, 2010. The hearing request provided: 1) the requestor's names, address, daytime phone number, 2) requested a contested case hearing, 3) identified their personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., health, noise, and traffic concerns). The group also identified one person, Mike Bercu, as their representative for purposes of receiving official communications and documents.

The Executive Director recommends that the Commission find that ***Braeburn Valley's*** *hearing request* ***substantially complied*** *with the requirements of 30 TAC §§ 55.201(c) and (d).*

2. Whether the Requestors are Affected Persons

a. Coalition Against Ruffino Trash Transfer Station (CARTTS)

CARTTS submitted a hearing request raising concerns about nuisance odors, noise, vectors, land use compatibility, and traffic issues associated with the major amendment to the Ruffino Hills Transfer Station Application. The group, represented by Lawrence Dunbar, states that it is an "organization representing a number of neighborhoods, such as the Braeburn Valley West Civic Association and the Glenshire Community Association ...." CARTTS states that its purpose is to "1) educate the public about issues and problems related to pollution, environmental hazards and health risks and solutions related to transfer stations, and 2) oppose the Ruffino Hills Transfer Station to the extent that it causes or will cause adverse impacts to the surrounding community." Accordingly, CARTTS seeks to protect several interests that are germane to the organization's specific purpose. The group also states that neither the claims asserted nor the relief requested requires the participation of the individual CARTTS members in this case.

Furthermore, CARTTS successfully listed at least one member of the group who has standing to request a hearing in their own right. The hearing request in this case listed eight members of the group and also located all of their locations on an attached map. The requesters, in numbered order, are 1) Michael Bercu, 2) Rosamond Landry Shelley, 3) David J. Doyle, 4) Nancy Letness, 5) Elida Ruiz, 6) Carol Meshell, 7) Huran Alacadag, and 8) the Turquoise Center. The map attached to the hearing request represents each member, with their corresponding number, in relation to the Ruffino Hills facility. The request further indicates that each member owns property and/or resides within close proximity to the facility, and also cites concerns that each member has regarding the proposed expansion of the transfer station; mostly noise and nuisance odors. These interests in nuisance odors and noise are interests that are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated due to their close proximity to the facility. Specifically, their close proximity to the facility increases the

likelihood that they will be impacted by potential traffic and odor issues with more regularity than members of the general public. Accordingly, the identified members of CARTTS have an interest in the application that is not common to members of the general public.

None of the addresses of CARTTS's eight listed members appear on the Affected Landowner's Map or the Affected Landowner's List. *See* **Attachment B**. However, the GIS Map developed by the Executive Director's staff indicates that all requestors are located within one (1) mile of the facility, and many of them are within a half mile. *See* **Attachment A**. The numbering of the Executive Director's GIS map corresponds to the numbering on the map provided by CARTTS.

The Executive Director recommends that the Commission find that ***CARTTS*** *has* ***established group standing*** *under 30 TAC § 55.205 and* ***is an affected*** *person under 30 TAC § 55.203.*

b. Glenshire Community Association (GCA)

GCA submitted a hearing request raising concerns about nuisance odors, noise, vectors, and traffic issues associated with the major amendment to the Ruffino Hills Transfer Station Application. GCA, which is represented by Lawrence Dunbar, states that it is a group "whose members include residents who live and/or own property in the neighborhood, in the vicinity of the referenced transfer station." The group states that its purpose is to "(1) promote and protect the value of the neighborhood, and (2) oppose projects, like Ruffino Hills Transfer Station, to the extent that they cause or will cause adverse impacts to the neighborhood." Accordingly, GCA seeks to protect several interests that are germane to the organization's specific purpose. The group also states in their hearing request that neither the claims asserted nor the relief requested require the participation of individual GCA members in this case.

Furthermore, GCA successfully listed at least one member of the group who has standing to request a hearing in their own right. The hearing request in this case listed three members of the group and also located all of their locations on an attached map. The requesters, in numbered order, are 5) Elida Ruiz, 6) Carol Meshell, and 7) Huran

Alacadag. The map attached to the hearing request represents each member, with their corresponding number, in relation to the Ruffino Hills facility. The request further indicates that each member owns property and resides within close proximity to the facility, and also cites concerns that each member has regarding the proposed expansion of the transfer station; mostly noise and nuisance odors. These interests in nuisance odors and noise are interests that are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated due to their close proximity to the facility. Specifically, their close proximity to the facility increases the likelihood that they will be impacted by potential traffic and odor issues with more regularity than members of the general public. Accordingly, the identified members of GCA have an interest in the application that is not common to members of the general public.

None of the addresses of GCA's three listed members appear on the Affected Landowner's Map or the Affected Landowner's List. *See* **Attachment B**. However, the GIS Map developed by the Executive Director's staff indicates that all requestors are located within one mile of the facility, and many of them appear to be within a half mile. *See* **Attachment A**. The numbering of the Executive Director's GIS map corresponds to the numbering on the map provided by GCA.

The Executive Director recommends that the Commission find that ***GCA*** *has* ***established group standing*** *under 30 TAC § 55.205 and* ***is an affected*** *person under 30 TAC § 55.203.*

c. Raindrop Turkish House

Raindrop Turkish House submitted a hearing request through its Board President, Mehmet Okumus. The Turkish House effectively stated a personal, justiciable interest in the Application. First, the hearing request indicated that the Turkish House is located within 1/8th of a mile from the facility. Next, the hearing request raised issues regarding nuisance odors and vehicle traffic associated with the facility. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the

activity regulated due to the close proximity of the Turkish House to the facility. Specifically, due to their close proximity to the facility, members or visitors of the Turkish House are more likely to experience potential traffic and odor issues related to the facility with greater regularity than members of the general public. Accordingly, the Turkish House has an interest in the application that is not common to members of the general public.

The address of the Turkish House does not appear on the Affected Landowner's Map or the Affected Landowner's List. *See* **Attachment B**. However, the GIS Map developed by the Executive Director's staff indicates that the Turkish House is located within one mile of the facility. *See* **Attachment A**. The Turkish House appears as location No. 8 in Attachment A, and corresponds exactly to the "Turquoise Center" identified in the request letter submitted by CARTTS. The "Raindrop Turkish House" and the "Turquoise Center" share the same address and appear to be the same entity.

The Executive Director recommends that the Commission find that the ***Raindrop Turkish House is an affected person*** *under 30 TAC § 55.203.*

d. Greater Fondren Southwest Super Neighborhood #36

Greater Fondren's hearing request does not provide sufficient information to establish either affected party status or group standing. Greater Fondren submitted a hearing request raising concerns regarding traffic issues associated with the major amendment to the Ruffino Hills Transfer Station Application. However, Greater Fondren, which is represented by Elaine Gaskamp, does not state the purpose or nature of its organization. Accordingly, Greater Fondren fails to identify whether the interests it seeks to protect are germane to the organization's purpose. Greater Fondren also fails to indicate who its members are, or whether the asserted claims and requested relief require the participation of individual Greater Fondren members.

Furthermore, Greater Fondren did not indicate whether any member of the group has standing to request a hearing in her own right. The hearing request in this case vaguely states that the transfer station is "located in close proximity to two of the largest southwest Houston neighborhoods ...." Greater Fondren's request does not

provide the names of the neighborhoods, the distance between the neighborhoods and facility, or even information regarding whether the neighborhoods are somehow "members" of Greater Fondren. The request also does not indicate whether Greater Fondren is itself affected, but rather only lists a P.O. Box address for the organization.

Greater Fondren does not appear on the Affected Landowner's Map or the Affected Landowner's List. Because Greater Fondren's request provides no evidence of its physical location, the Executive Director's staff was unable to provide the Commission with any further information regarding the group's proximity to the facility.

The Executive Director recommends that the Commission find that ***Greater Fondren has not established group standing*** *under 30 TAC § 55.205 and* ***is not an affected person*** *under 30 TAC § 55.203 unless Greater Fondren provides additional information.*

e. Braeburn Valley West Subdivision

Braeburn Valley's hearing request does not provide sufficient information to establish group standing. Braeburn Valley submitted a hearing request raising concerns about health, noise, and traffic issues associated with the major amendment to the Ruffino Hills Transfer Station Application. However, the group, which is represented by Mike Bercu, does not state the purpose or nature of the organization. Accordingly, Braeburn Valley fails to identify whether the interests it seeks to protect are germane to the organization's purpose. Braeburn Valley also fails to indicate whether the asserted claims and requested relief require the participation of individual group members.

However, Braeburn Valley successfully listed at least one member of the group who has standing to request a hearing in his own right. The hearing request in this case identified Mike Bercu, representative of the Board of Directors of Braeburn Valley, who claims to live "next to the landfills." The Ruffino Hills Transfer Station is directly adjacent to a closed MSW landfill, which Mr. Bercu appears to reference. Furthermore, the indentified interests in health, noise, and traffic are interests that are protected by the law under which the Application is being considered, and there is a reasonable

relationship between the interests claimed and the activity regulated due to Mr. Bercu's close proximity to the facility. Specifically, due to his close proximity to the facility, Mr. Bercu is more likely to experience potential traffic and noise issues related to the facility with greater regularity than members of the general public. Accordingly, Mr. Bercu has an interest in the application that is not common to members of the general public.

Mike Bercu does not appear on the Landowner's Map or the Affected Landowner's List. *See* **Attachment B**. However, the GIS Map developed by the Executive Director's staff indicates that the address provided by Mr. Bercu's is within one mile of the facility. *See* **Attachment A**. The address provided by Mr. Bercu appears as location No. 1 on the Executive Director's Map, which is the same address identified by CARTTS in their hearing request.

The Executive Director recommends that the Commission find that ***Braeburn Valley is not an affected person*** *under 30 TAC § 55.203 because Braeburn Valley* ***has not established all elements of group standing*** *under 30 TAC § 55.205, unless Braeburn Valley provides additional information.*

3. Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing

The Executive Director has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. All identified issues in this response are considered disputed, unless otherwise noted.

1. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to noise?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Comments 1, 2, and 5. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue ***is appropriate*** *for referral to SOAH.*

2. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to nuisance odor?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Comments 3 and 5. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue ***is appropriate*** *for referral to SOAH.*

3. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to adequacy of roads and traffic?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Comments 7 and 8. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue ***is appropriate*** *for referral to SOAH.*

4. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to vector control?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Comment 6. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue ***is appropriate*** *for referral to SOAH.*

5. Whether the Application for Major Amendment proposes sufficient measures to protect human health and safety?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Comment 4. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue ***is appropriate*** *for referral to SOAH.*

6. Whether the proposed activity is compatible with local land uses?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Comments 9, 11, and 12. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue ***is appropriate*** *for referral to SOAH.*

VI. Duration of the Contested Case Hearing

Should the Commission decide to refer this case to SOAH, the Executive Director recommends a nine-month duration for a contested case hearing from the date of the preliminary hearing to the presentation of a proposal for decision.

VII. Response to Requests for Reconsideration

On June 23, 2011, **Virgil W. Fivecoate** filed a timely request for reconsideration, raising issues related to noise and vectors increasing as a result of the proposed activity. Mr. Fivecoate also indicated that trucks entering and exiting the facility block traffic as they turn. Also on June 23, 2011, **Howard Plotkin** filed a timely request for reconsideration, raising issues related to noise, nuisance odors, and property values.

Other commenters raised these issues during the comment period and the Executive Director responded to them in his Response to Public Comments. The draft permit complies with all applicable statutes and regulations, and the Requesters did not provide any additional information that would cause the Executive Director to alter his

recommendation to issue the permit. Consequently, the Executive Director respectfully recommends denial of the requests for reconsideration.

The Executive Director respectfully recommends that the Commission ***deny the requests for reconsideration*** *submitted by* ***Virgil W. Fivecoate*** *and* ***Howard Plotkin****.*

VIII. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

a) Find that the following groups or individuals ***are affected*** and grant their hearing requests:

   1. Coalition Against Ruffino Trash Transfer Station
   2. Glenshire Community Association
   3. Raindrop Turkish House

b) Find that the following groups or individuals ***are not affected*** and deny the hearing requests unless the parties provide additional information:

   1. Greater Fondren Southwest Super Neighborhood #36
   2. Braeburn Valley West Subdivision

c) Should the Commission find that any of the requestors are affected persons, the following issues should be referred to SOAH for a Contested Case Hearing for a duration of nine months:

   1. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to noise?
   2. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to nuisance odor?

3. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to adequacy of roads and traffic?

4. Whether the Application for Major Amendment proposes sufficient measures to meet TCEQ rules relating to vector control?

5. Whether the Application for Major Amendment proposes sufficient measures to protect human health and safety?

6. Whether the proposed activity is compatible with local land uses?

d) Deny the requests for reconsideration submitted by Virgil W. Fivecoate and Howard Plotkin.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
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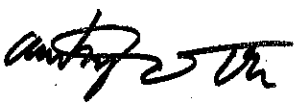

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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on July 25, 2011, the original and seven copies of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" for Ruffino Hills Transfer Station, L.P. MSW Permit No.1355A, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.

Daniel W. Ingersoll, Staff Attorney
Environmental Law Division

Anthony Tatu, Staff Attorney
Environmental Law Division

MAILING LIST
RUFFINO HILLS TRANSFER STATION, L.P.
DOCKET NO. 2011-1071-MSW; PERMIT NO. 1355A

FOR THE APPLICANT:
Steve H. Seed
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c/o Fort Bend County Regional landfill
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Via electronic mail

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Via electronic mail:

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Via electronic mail:

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Via electronic email:

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Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC 222
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Member of Congress, Congress of the United States House of Representatives
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INTERESTED PERSON(S):
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A Bruce Krewinghaus
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Houston, Texas 77031

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Greater Fondren Southwest Super
Neighborhood Council #36
7626 Bankside Drive
Houston, Texas 77071-1802

Nancy Letness
9430 Portal Drive
Houston Texas 77031-1014

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Houston Texas 77031-1014

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Houston, Texas 77031

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Harris County Commissioner El Franco Lee
7901 El Rio Street
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Walter Steets
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Oma Jean Stevenson
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Houston Texas 77074-1344

Rod Stevenson
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9418 Portal Drive
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Pasadena Texas 77506-1322

Marcy Williams
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Houston Texas 77071-1802

V Jody Wilson
9335 Spellman Road
Houston Texas 77031

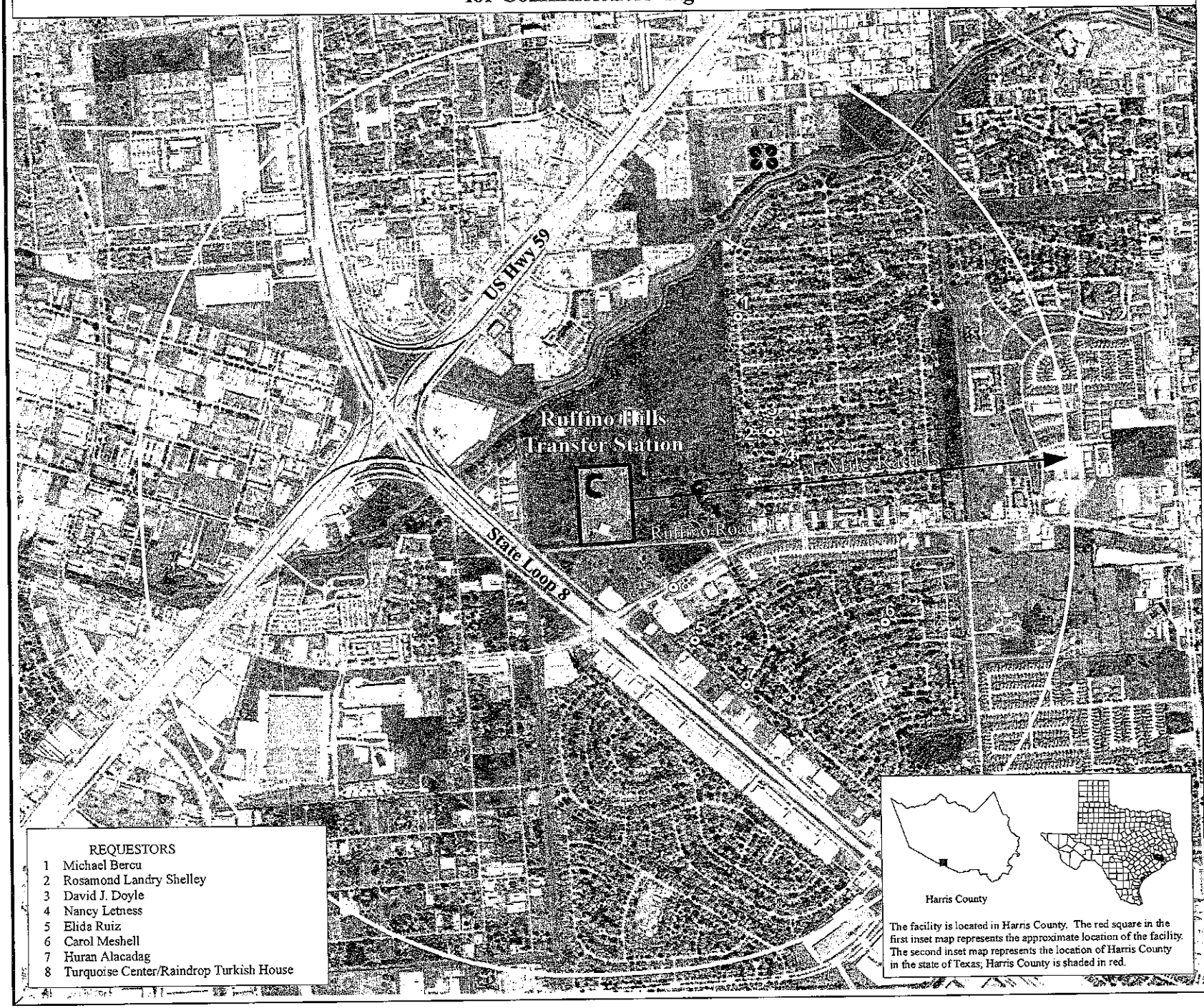
David Wizig
11818 N Kensignton Drive
Houston Texas 77031-2614

David & Debbie Wizig
11818 N. Kensington Drive
Houston Texas 77031

ATTACHMENT A
GIS MAP

Ruffino Hills Transfer Station

Ruffino Hills Transfer Station, LP
TCEQ Permit No. 1355A
Map Requested by TCEQ Office of Legal Services for Commissioners' Agenda



Protecting Texas by Reducing and Preventing Pollution

TCEQ

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

July 19 2011

0 0.1 0.2 0.4 Miles

Projection: Texas Statewide Mapping System (TSMS)
Scale 1:20,056

Legend

- ☐ Facility
- ⊙ Requestor's Property

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthoimagery Project.

This map depicts the following:
(1) The approximate location of the facility. This is labeled "Ruffino Hills Transfer Station".
(2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
(3) Points representing locations of requestors.

N

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M McDonough CRF-353061

ATTACHMENT B

AFFECTED LANDOWNER'S MAP AND AFFECTED LANDOWNER'S LIST

Ruffino Hills Transfer Station

ADJACENT AND POTENTIALLY AFFECTED
LANDOWNERS LIST
(VERIFIED AS OF 08/06/2010)
EXCEPT AS NOTED, ALL INFORMATION FROM HARRIS COUNTY APPRAISAL DISTRICT ("HCAD") RECORDS

300 0 300 600 900
GRAPHIC SCALE - FEET

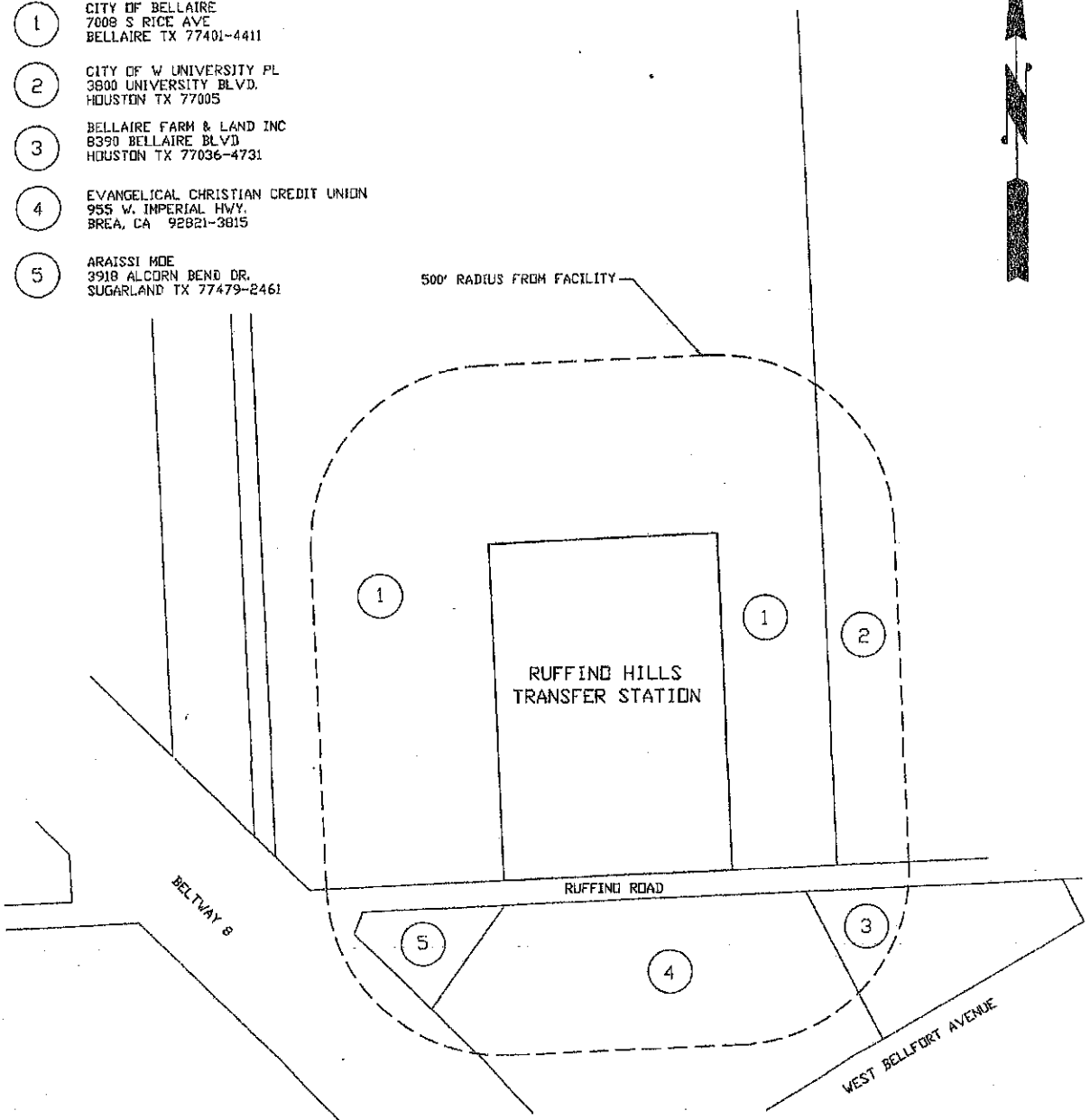
1. CITY OF BELLAIRE
7008 S RICE AVE
BELLAIRE TX 77401-4411

2. CITY OF W UNIVERSITY PL
3800 UNIVERSITY BLVD.
HOUSTON TX 77005

3. BELLAIRE FARM & LAND INC
8390 BELLAIRE BLVD
HOUSTON TX 77036-4731

4. EVANGELICAL CHRISTIAN CREDIT UNION
955 W. IMPERIAL HWY.
BREA, CA 92821-3815

5. ARAISSI MOE
3918 ALCORN BEND DR.
SUGARLAND TX 77479-2461



LEGEND:
- PERMIT BOUNDARY ADJACENT AND POTENTIALLY AFFECTED
- LANDOWNER PROPERTY BOUNDARIES
- (4) ADJACENT LANDOWNER TRACT NUMBER

FOR PERMITTING PURPOSES ONLY

STATE OF TEXAS REGISTERED KEVIN A. OLSON 4524 LICENSED PROFESSIONAL ENGINEER

NOTES:
1.) ADJACENT AND POTENTIALLY AFFECTED LANDOWNER PROPERTY LINES TAKEN FROM HARRIS COUNTY APPRAISAL DISTRICT MAPS PUBLICATION DATE: 11/4/2005.
2.) PROPERTY AND MINERAL OWNERS' NAMES AND MAILING ADDRESSES WERE RESEARCHED FROM HARRIS COUNTY APPRAISAL DISTRICT REAL PROPERTY ACCOUNT INFORMATION RECORDS AS OF AUG. 06, 2010. PROPERTY OWNERS ARE LISTED ABOVE. NO MINERAL OWNERS WERE FOUND IN APPRAISAL RECORDS AT THIS TIME.

FIGURE 1-5

2	8/10	UPDATE MAP AND LIST
1	8/08	RESPONSE TO 1ST TECHNICAL NOD.

WCA

LAND AND MINERAL INTEREST OWNERSHIP MAP AND LIST
RUFFINO HILLS TRANSFER STATION
HARRIS COUNTY, TEXAS

MARTIN SURVEY ASSOCIATES, INC.
PROFESSIONAL SURVEYORS, BOUNDARY CONSTRUCTION & TOPOGRAPHIC SURVEYS
9810 MILL CLAYTON PKWY SUITE F 281-446-8999
HUMBLE, TEXAS 77338

MARTIN FILE: wcaruffmno.DWG

ATTACHMENT C
COMPLIANCE HISTORY

Ruffino Hills Transfer Station

Compliance History

Customer/Respondent/Owner-Operator: CN602656142 Ruffino Hills Transfer Station, LP Classification: AVERAGE Rating: 3.75

Regulated Entity: RN101664233 RUFFINO HILLS TRANSFER STATIO Classification: AVERAGE Site Rating: 4.50

ID Number(s):

MUNICIPAL SOLID WASTE PROCESSING	PERMIT	1355
MUNICIPAL SOLID WASTE PROCESSING	PERMIT	1355A
MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1238
AIR NEW SOURCE PERMITS	REGISTRATION	80948

Location: 9720 RUFFINO RD, HOUSTON, TX, 77031

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 19, 2011

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Compliance Period: April 16, 2003 to July 19, 2011

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

Name: KEIANDRE J MCGRUDER Phone: 239 - 4112

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR Ruffino Hills Transfer Station, LP
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR City of Bellaire
5. When did the change(s) in owner or operator occur? 01/12/2004 OWNOPR City of Bellaire
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

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 11/02/2004 (339209)
2 02/23/2005 (349318)
3 12/20/2007 (599176)

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

Date: 09/20/2004 (291621) CN602656142
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.117(b)
30 TAC Chapter 330, SubChapter G 330.150(5)(A)
Description: Failure to unload waste in an authorized area.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
Description: Failure to properly manage diesel storage tank to prevent leakage.
Date: 12/19/2007 (599176) CN602656142
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.117(b)
30 TAC Chapter 330, SubChapter G 330.150(5)(A)
Description: Failure to unload waste in an authorized area.
Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
Description: Failure to properly manage diesel storage tank to prevent leakage.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter T 330.955(a)
Description: Failure to prevent the disturbance of the final cover of a landfill.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

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
TECHNICAL SUMMARY AND DRAFT PERMIT

Ruffino Hills Transfer Station

Bryan W. Shaw, Ph.D., *Chairman*
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

August 20, 2010

Mr. Stephen H. Seed
Ruffino Hills Transfer Station, LP
c/o Fort Bend County Regional Landfill
14115 Davis Estates Road
Needville, Texas 77461

Re: Ruffino Hills Transfer Station – Harris County
Municipal Solid Waste – Permit Amendment Application No. 1355A
Permit Amendment Application – Technically Complete
Tracking Nos. 11993557, 13151793 and 13159703; RN101664233/CN602656142

Dear Mr. Seed:

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

A copy of the draft permit, the Technical Summary, the Compliance History, and the Executive Director's Preliminary Decision are enclosed. A copy of the technically complete permit application, the draft permit, and the Executive Director's Preliminary Decision must be placed at the Houston Public Library, Frank Neighborhood Branch, 5005 West Bellfort Road, Houston, for public viewing/copying as will be indicated in the "Notice of Application and Preliminary Decision." These documents must be available at this location beginning on the first day of newspaper publication. The notice and instructions for publishing will be sent to you by the Chief Clerk's Office.

If you have any questions concerning this matter, please contact Mr. Steve Odil at mail code MC 124, P.O. Box 13087, Austin, Texas 78711; telephone number (512) 239-4568.

Sincerely,

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

RCC/SPO/sm

cc: Mr. Charles G. Dominguez, P.E., Golder Associates, Houston

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

MSW Permit No.:	1355A
Name of Permittee & Site Operator:	Ruffino Hills Transfer Station, LP c/o Fort Bend County Regional Landfill 14115 Davis Estates Road Needville, TX 77461
Property Owner:	City of Bellaire 7008 South Rice Avenue Bellaire, TX 77401
Facility Name & Address:	Ruffino Hills Transfer Station 9720 Ruffino Road Houston, TX 77031
Classification of Site:	Type V Municipal Solid Waste Processing Facility
Wastes to be Accepted:	Solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, putrescible waste, rubbish, ashes, brush, street cleaning waste, abandoned automobiles, and Class 2 and Class 3 industrial solid waste

The permittee is authorized to store and process wastes and to recycle recovered materials in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and Orders of the Commission and laws of the State of Texas. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality. This permit will be valid until canceled, amended, or revoked by the Commission.

APPROVED, ISSUED AND EFFECTIVE in accordance with the Texas Health & Safety Code Chapter 361 and Title 30 Texas Administrative Code (30 TAC) Chapter 330.

ISSUED DATE:

For the Commission

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Ruffino Hills Transfer Station, LP
Ruffino Hills Transfer Station
MSW Permit No. 1355A

Signature Sheet 1

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IX. **ATTACHMENT A** 8
The Permit Application 8

X. **ATTACHMENT B** 8
Amendments, Modifications, and Corrections to MSW Permit No. 1355A 8

I. Size and Location of Facility

A. This Type V facility is located in Houston, Harris County, Texas, approximately 2,400 feet southeast of the intersection of U.S. Highway 59 and the Sam Houston Tollway/Beltway 8 on Ruffino Road. The facility contains 14.18 acres.

B. The legal description is contained in Parts I/II, Documentation, of the application.

C. Coordinates and Elevation of Site Permanent Benchmark:

Latitude:	29° 39' 23.66" N
Longitude:	95° 32' 59.96" W
Elevation:	90 feet above mean sea level (msl)

II. Facilities and Operations Authorized

A. Days and Hours of Operation

The operating hours of this municipal solid waste facility will be from 3:00 am to 9:00 pm, seven days a week. The facility is authorized to accept waste from 3:00 am to 7:00 pm, seven days a week. The operator shall post the actual operating hours on the site sign.

B. Wastes Authorized at this Facility

The permittee is authorized to store and process solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, putrescible waste, rubbish, ashes, brush, street cleaning waste, abandoned automobiles, and Class 2 and Class 3 industrial solid waste.

C. Wastes Prohibited at This Facility

The permittee may not accept hazardous waste, Class 1 non-hazardous industrial solid waste, regulated asbestos-containing materials, liquid waste, special waste other than Class 2 and Class 3 industrial solid waste, or any other prohibited waste as listed in Parts I/II, Section 3.1.1 of the application.

D. Waste Acceptance Rate

Solid waste may be accepted for processing at this facility at a rate of up to 2,000 tons per day.

E. MaximumWaste Storage

Up to 3,000 tons of waste may be stored at this facility.

F. Facilities Authorized

The permittee is authorized to operate the facilities related to the processing and storage of the wastes authorized, and related to the recycling of the recovered materials, which shall include units, structures, appurtenances, or improvements as described in the permit application.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with TCEQ rules in 30 TAC Chapter 330 (Municipal Solid Waste) and 30 TAC Chapter 305 (Consolidated Permits).

III. Facility Design, Construction, and Operation

A. Facility design, construction, and operation must comply with this permit, Commission Rules, including applicable sections of 30 TAC Chapter 330, Special Provisions contained in this permit, and the permit application.

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, and to prevent inundation or discharge from the areas surrounding the facility components. This site must be designed, constructed and maintained to collect spills and incidental precipitation in such a manner as to:

1. preclude the release of any contaminated runoff or spills; and

2. prevent washout of any waste by a 100-year storm.

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

1. requirements of the Texas Water Code, §26.121;

2. requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements, §402 as amended;

3. requirements under the Federal Clean Water Act, §404, as amended; and

4. requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act, §208 or §319, as amended.

D. All facility employees and other persons involved in facility operations shall be qualified, trained, and experienced to perform their duties so as to achieve compliance with this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules, and this permit, commensurate with their levels and positions of authority.

IV. Financial Assurance

A. General. Authorization to operate the facility is contingent upon compliance with provisions contained in this permit and maintenance of financial assurance in accordance with 30 TAC Chapter 330 Subchapter K and 30 TAC Chapter 37.

B. Closure Financial Assurance. The amount of financial assurance posted for closure shall be provided annually in current dollars in an amount equal to closing the entire facility pursuant to 30 TAC §330.505(a). The owner and/or operator shall annually adjust the closure cost estimate and the dollar amount of the financial assurance for inflation within 60 days prior to the anniversary date of the permit pursuant to 30 TAC §330.505.

C. Closure Financial Assurance Amount. Within 60 days after the date of permit issuance or prior to the initial receipt of waste, the permittee shall provide financial assurance instrument(s) for demonstration of closure in an amount equal to but not less than $142,284 for closure in 2007 dollars. The amount of financial assurance to be posted annually shall be determined as described in Section IV.B of this permit.

D. Closure Plan Modifications. If the facility's closure plan is modified, the permittee shall provide new cost estimates in current dollars, which meet the requirements 30 TAC Chapter 37 and 30 TAC §§330.505. Modifications shall be made pursuant to 30 TAC §305.70. The amount of the financial assurance mechanism shall be adjusted within 20 days after the modification is approved. Adjustments to the cost estimates and/or 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 shall commence:

A. 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 Texas Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;

B. Upon abandonment of the site;

C. Upon direction of the Executive Director for failure to secure and maintain adequate financial assurance as required; or

D. Upon permittee's notification to the TCEQ that the facility will no longer operate.

VI. Standard Permit Conditions

A. This permit is based on and the site owner/operator shall follow the permit application submittals dated March 10, 2008, and revised in submittals dated April 4, 2008; September 9, 2008; November 6, 2008; October 5, 2009; July 23, 2010; and August 9, 2010. These application submittals are hereby approved subject to the terms of this permit, the rules and regulations, and any orders of the TCEQ. These application materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these elements shall become

conditions of this permit upon the date of approval by the Commission. The permittee shall maintain the application and all supporting documentation at the facility and make them available for inspection by TCEQ personnel.

B. Attachment B, consisting of amendments, modifications, and corrections to this permit, is hereby made a part of this permit.

C. The permittee shall comply with all conditions of this permit. Failure to comply with any 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. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life.

E. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.

F. Regardless of the specific designs contained in the permit application, the permittee shall be required to meet all performance standards in the permit, the application, or as required by local, state, and federal laws.

G. If differences arise between the rules, regulations, and permit provisions and the incorporated application materials, then the rules, regulations, and permit provisions shall prevail.

H. 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 and 30 TAC Chapter 330, Subchapter U.

VII. Incorporated Regulatory Requirements

A. 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 operation authorized by this permit.

B. To the extent applicable to the activities authorized by this permit, the requirements of 30 TAC Chapters 37, 281, 305, and 330, and future revisions are adopted by reference and are hereby made provisions and conditions of this permit.

VIII. Special Permit Provisions

The Texas Department of Transportation (TxDOT) has recommended that the ingress and egress radii at the Beltway 8 northbound frontage road be modified to prevent trucks from jumping existing curbs and that a 48" by 48" sign stating "PLANT ENTRANCE" be placed on the east side of the Beltway 8 frontage road 300 feet south of Ruffino Street. The conditions of this permit commence upon the completion of this work to the satisfaction of Mr. Leonard Polk, P.E., of the TxDOT Houston District Office.

IX. ATTACHMENT A

The Permit Application

X. ATTACHMENT B

Amendments, Modifications, and Corrections to MSW Permit No. 1355A.

TECHNICAL SUMMARY

Ruffino Hills Transfer Station LP
Ruffino Hills Transfer Station
Municipal Solid Waste (MSW)
Permit Amendment Application Number 1355A
Harris County, Texas

August 2010

Prepared by

Municipal Solid Waste Permits Section
Waste Permits Division
Texas Commission on Environmental Quality

1.0 General Information

Applicant: Ruffino Hills Transfer Station LP
c/o Fort Bend County Regional Landfill
14115 Davis Estates Road
Needville, TX 77461

Facility: Ruffino Hills Transfer Station
Type V

1.1 Purpose of Permit Amendment Application

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Solid Waste transfer station, which is a Type V municipal solid waste facility in Harris County, Texas. This application was received on March 14, 2008 in accordance with Title 30 of the Texas Administrative Code (30 TAC) Section 305.62. The total permitted facility boundary is 14.18 acres. The amended permit would expand waste acceptance and operating hours and increase the maximum daily acceptance rate.

1.2 Wastes

Wastes Authorized to be Accepted:

This facility accepts municipal solid waste which is defined in 30 TAC§330.3 as solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, abandoned automobiles, and Class 2 and Class 3 industrial solid waste.

Wastes Not Authorized to be Accepted:

Waste prohibited for acceptance at this facility include regulated hazardous waste, polychlorinated biphenyls waste, liquid waste, regulated asbestos-containing materials, Class 1 industrial solid waste, and special waste other than Class 2 and Class 3 industrial solid waste. Any other waste which is prohibited or not authorized may not be accepted.

2.0 Application Review

This application has been reviewed for compliance with the applicable requirements of 30 TAC Chapters 281, 305, and 330. On April 16, 2008, the application was determined to be administratively complete. The application has been technically reviewed by the Municipal Solid Waste Permits Section to determine its compliance with the applicable requirements in 30 TAC Chapters 305 and 330. Chapter 330 of 30 TAC contains the minimum regulatory criteria for municipal solid waste facilities. It has been determined that the information in

this permit amendment application demonstrates compliance with these regulatory requirements and that the application is technically complete. A draft permit has been prepared. A Notice of Application and Preliminary Decision will be issued.

3.0 Location and Size

3.1 Location

The Ruffino Hills Transfer Station is located in Harris County, approximately 2,400 feet southeast of the intersection of U.S. Highway 59 and the Sam Houston Tollway/Beltway 8 on Ruffino Road. The location is illustrated in Attachment 1 (General Location Map) of this Technical Summary.

Elevation and Coordinates of Current Permanent Benchmark:

Latitude:	29° 39' 23.66" N
Longitude:	95° 32' 59.96" W
Elevation:	90 feet above mean sea level (msl)

3.2 Size

The total area within the permit boundary is approximately 14.18 acres. The site layout is illustrated in Attachment 2 (Site Layout Plan) of this Technical Summary.

4.0 Facility and Operations Authorized

The facility consists of a site entrance with appropriate security fencing, a paved entrance road to the site, all-weather access roads, surface drainage and storm water run-on/runoff control structures and a building in which waste will be unloaded and then loaded into transfer trailers for transportation to disposal facilities.

5.0 Facility Design and Construction

The transfer building is 110 feet by 118 feet with concrete floors, concrete push walls, steel framing, metal exterior panes, and a roof. The building is split-level, allowing unloading of waste on the tipping floor located on the upper level, after which waste is lifted over a push wall to transfer trailers located on the lower level.

6.0 Land Use

Land use in the vicinity of the site was evaluated in accordance with applicable subsections of 30 TAC §330.61.

6.1 Zoning

The facility is located within the City of Houston which does not have zoning.

6.2 Surrounding Area Land Use

Land use within a one-mile radius of the site is primarily residential (35.9%), open (27.9%), commercial (22.8%), or industrial (7.2%).

6.3 Growth Trends

The transfer station is located within the City of Houston and Harris County, but within five miles of the facility are the cities of Bellaire, Sugarland, Meadows Place, Stafford and Missouri City, as well as unincorporated areas of Fort Bend County. Sixty-four percent of this area within five miles is within Harris County while the rest is within Fort Bend County. The population of this area is expected to increase by about 42.8% over the next 18 years.

6.4 Residences and Businesses

There are estimated to be 2,762 single-family homes within one mile of the facility, as well as 17 multi-family developments, including apartment complexes, condominiums, and townhomes. There are about 355 businesses, six licensed day care facilities, two parks and two recreational areas within a one-mile radius of the site.

6.5 Schools and Churches

There are two public schools, two private schools, three vocational schools, one school-district-owned property, and 19 churches within one mile of the site.

6.6 Cemeteries

There is one known cemetery within one mile of the site.

6.7 Historical Sites

No historical properties will be affected by the site.

7.0 Location Restrictions

Location restrictions for municipal solid waste storage and processing facilities are set forth in 30 TAC Chapter 330 Subchapter M.

7.1 Airport Safety

Airport restrictions provided in §330.545 apply only to landfills.

7.2 Floodplains

The facility is not located within the 100-year floodplain.

7.3 Wetlands

Two areas of isolated wetlands were identified on the property, totaling approximately 0.6 acres. No waste activities will be performed in these areas and the development and operation of the transfer station will not adversely affect these areas.

7.4 Fault Areas and Seismic Impact Zones

Fault area and seismic impact zone restrictions provided in §330.555 and §330.557, respectively, apply only to landfills.

7.5 Unstable Areas

Unstable area restrictions provided in §330.559 apply only to landfills.

8.0 Site Development and Operation

The Site Development Plan (SDP) is Part III of the permit application and sets forth the engineering design and other technical aspects of the facility. The Site Operating Plan (SOP) is Part IV of the permit application. The SOP provides operating procedures for the site management and the site operating personnel for the daily operation of the facility. The SOP also provides guidance to maintain the facility in compliance with the engineering design and applicable regulatory requirements. These documents become part of the permit.

9.0 Protection of Endangered Species

A threatened and endangered species assessment was performed for the facility. The assessment concluded that the site contained no suitable habitat for any state or federally listed threatened or endangered species identified as potentially occurring in Harris County and a site survey observed no threatened or endangered species at the site.

10.0 Financial Assurance

Financial assurance must be maintained for the facility in accordance with 30 TAC Chapter 37 (Financial Assurance) and 30 TAC Chapter 330 Subchapter K for closure.

11.0 Attachments

Three attachments from the permit application are included with this Technical Summary. These attachments are as follows.

Attachment 1 - General Location Map
Attachment 2 - Site Location Map
Attachment 3 – Site Layout Plan

12.0 Public Participation Process

The process through which the public is allowed to participate in the final decision on the issuance of a municipal solid waste permit is outlined as follows.

a. The TCEQ will hold a public meeting if the Executive Director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the Commission accepts formal comments on the application. There is also an informal question and answer period.

b. After technical review of the application is completed, the application is declared technically complete and a draft permit is prepared. The draft permit, the public notice language, and the technical summary are sent to the Chief Clerk's office for processing.

c. The "Notice of Application and Preliminary Decision" is sent to the applicant and published in the newspaper. This notice provides a 30-day period from the date of publication for the public to make comments about the application or draft permit. The notice also allows the public to request a public meeting for the proposed facility.

d. After the 30-day comment period has ended, a "Response to Comments" (RTC) is prepared for all comments received through the mail and at a public meeting. The RTC is sent to all persons who commented on the application. Persons who receive the comments have a 30-day period after the RTC is mailed in which to request a public hearing.

e. After the 30-day period to request a hearing is complete, the matter is placed on an agenda meeting for the TCEQ Commissioners to make a determination to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a public hearing.

f. A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant(s) present witnesses and testimony to support or dispute information contained in the application. When the evidentiary portion of the hearing is completed, the ALJ will issue a Proposal for Decision (PFD). The PFD is placed on an agenda meeting of the TCEQ Commissioners for consideration of issuance or denial of a permit.

g. After the approval or denial of an application has been made, a request to overturn the decision may be made by a party that does not agree with the decision. The request to overturn must be made within a 20-day period after the decision is sent to the applicant. These requests are considered within a 25-day period after the end of the 20-day request period. The matter could be set on another agenda meeting for reconsideration, or allowed to remain in effect without any action after the 25-day period is complete.

h. Applications for which no comments are received or no one requests a public hearing are considered uncontested matters after the initial 30-day comment period. The matter is placed on the Executive Director's signature docket and a permit is issued. The motion to overturn or reconsider is also applicable in this situation.

13.0 Additional Information

For information regarding this application, contact the Municipal Solid Waste Permits Section:

Mr. Steve Odil, P.E.
MSW Permits Section (MC-124)
Waste Permits Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711
(512) 239-4568

To request a copy of the Site Development Plan, contact the consulting engineer:

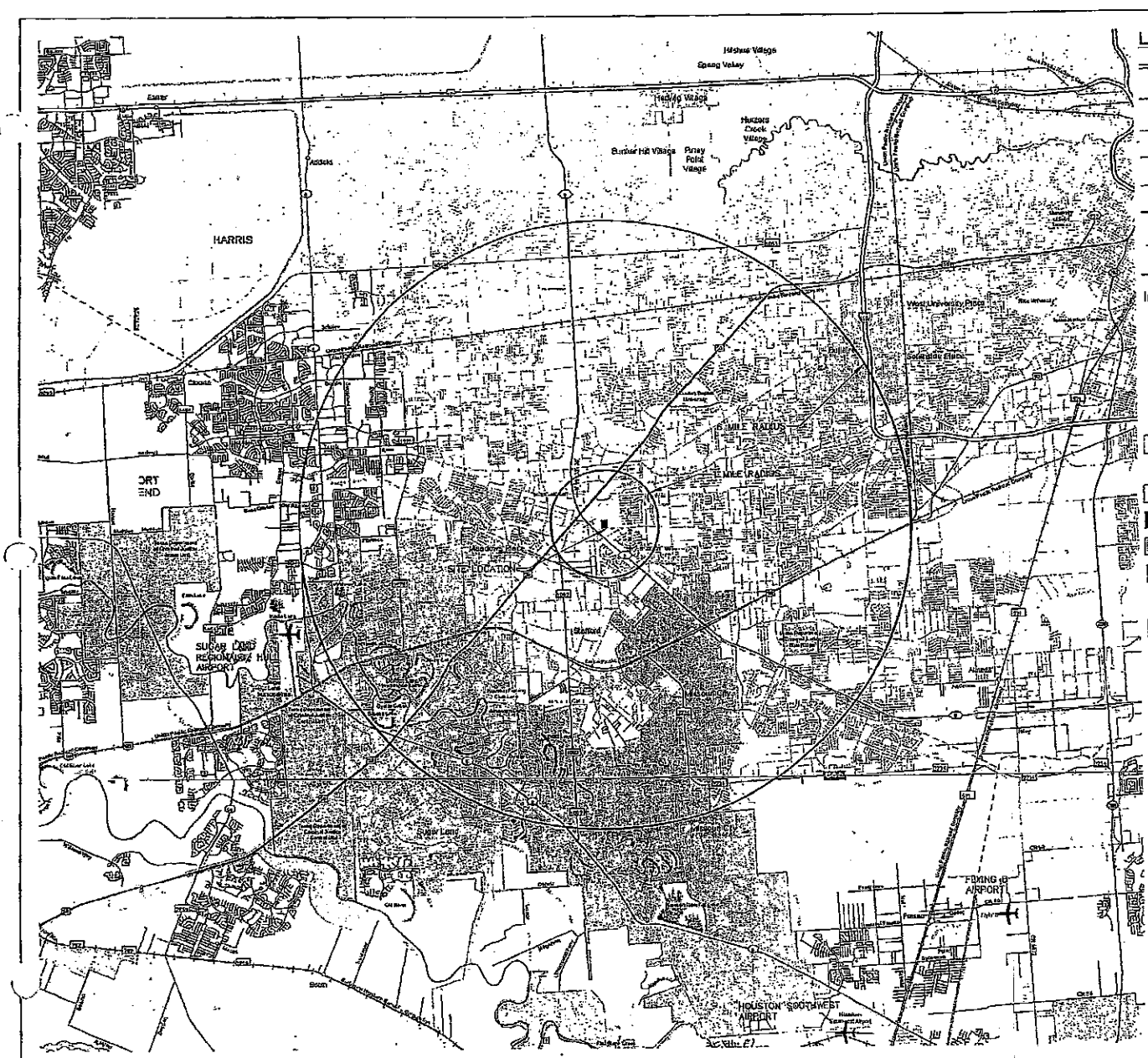
Mr. Charles G. Dominguez, P.E.
Golder Associates
500 Century Plaza Drive, Suite 190
Houston, TX 77073
(281) 821-6868

Information concerning public participation in the public hearing process, contact the TCEQ's Office of the Public Interest Counsel:

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

Information concerning public hearing procedures for municipal solid waste permits may be obtained by contacting Mr. Bill Newchurch, Natural Resources Team Leader, at:

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



SOURCE: TEXAS DEPARTMENT OF TRANSPORTATION, COUNTY MAPBOOK 2006, GRIDS 541, 542, 582, AND 583.

NOTES

1. THERE ARE NO KNOWN AIRPORTS LOCATED WITHIN 5 MILES OF THE FACILITY.

STATE OF TEXAS
CHARLES G. DOMINGUEZ
83247
REGISTERED PROFESSIONAL ENGINEER
4/29/08

INTENDED FOR PERMITTING PURPOSES ONLY

Golder Associates

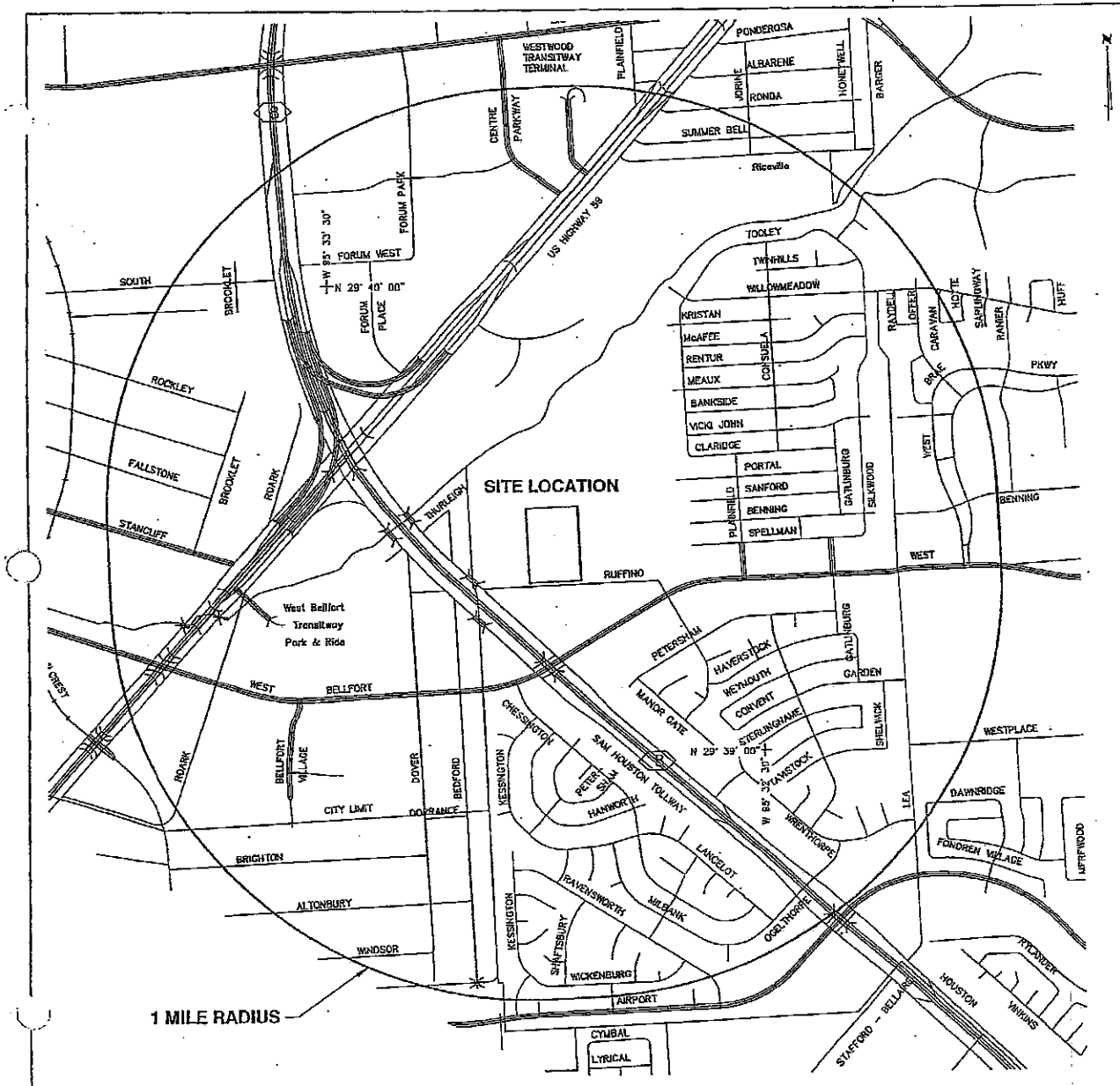
WCA

RIPPING HILLS TRANSFER STATION
PERMIT AMENDMENT APPLICATION MSW-1088A
HOUSTON, HARRIS COUNTY, TEXAS

GENERAL LOCATION MAP

DECEMBER 2007
AS SHOWN

FIGURE NUMBER
1-1



SOURCE: TEXAS DEPARTMENT OF TRANSPORTATION, DIGITAL COUNTY/URBAN MAP FILE 102URBAN.DWG DATED SPRING 2003.

1/8 0 1/8 1/4
scale miles

STATE OF TEXAS
CHARLES G. DOMINGUEZ
83247
REGISTERED PROFESSIONAL ENGINEER

INTENDED FOR PERMITTING PURPOSES ONLY

Golder Associates

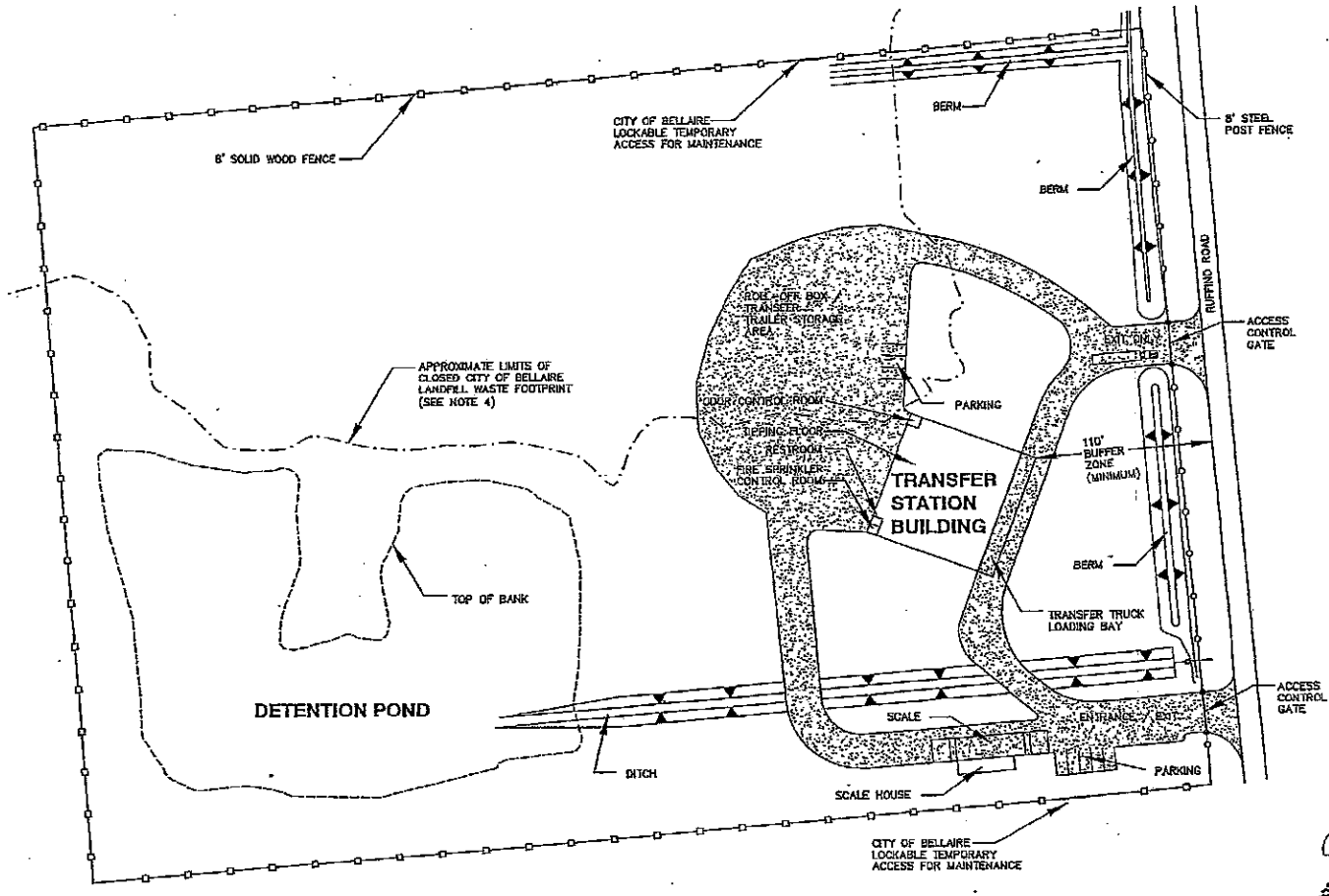
WCA

RUFFINO HILLS TRANSFER STATION
PERMIT AMENDMENT APPLICATION MSW-1358A
HOUSTON, HARRIS COUNTY, TEXAS

SITE LOCATION MAP

FIGURE NUMBER

1-2



LEGEND

- 8' WOOD FENCE LINE
- 8' STEEL POST FENCE LINE
- ROADS & IMPROVEMENTS
- DETENTION POND
- LIMIT OF CLOSED MUNICIPAL SOLID WASTE FACILITY
- ASPHALTIC / CONCRETE PAVEMENT

NOTES

1. CITY OF BELLAIRE TEMPORARY ACCESS ROAD USED FOR INFREQUENT MAINTENANCE OF THE CITY OF BELLAIRE LANDFILL.
2. SITE LAYOUT INFORMATION TAKEN FROM PERMIT DRAWINGS BY JFK GROUP, INC., DATED 2004/2005.
3. THE BERM ALONG RUFFIN ROAD AND ADJACENT EASTERN PROPERTY WILL PROVIDE VISUAL SCREENING. THE 8-FOOT WOODEN FENCE WILL PROVIDE A VISUAL SCREEN ON THE NORTHERN, EASTERN, AND WESTERN BOUNDARIES OF THE FACILITY PROPERTY. ADDITIONAL LANDSCAPING WHICH WILL ALSO PROVIDE A VISUAL SCREEN IS SHOWN ON PART III, ATTACHMENT 1, AS-BUILT SHEET C-10. NO WIND BREAKS OR GREENBELTS ARE LOCATED ON THE FACILITY PROPERTY.
4. THE LIMITS OF THE CLOSED LANDFILL WERE TAKEN FROM ATTACHMENT 1, FIGURE 4 OF THE CURRENT SITE DEVELOPMENT PLAN, DATED MAY 2004.

STATE OF TEXAS
9/9/05
CHARLES G. DOMINGUEZ
83247
REGISTERED
PROFESSIONAL ENGINEER

-50 0 50 100
scale feet

INTENDED FOR PERMITTING PURPOSES ONLY

Golder Associates

WCA

RUFFIN HILLS TRANSFER STATION
PERMIT AMENDMENT APPLICATION MSW-1955A
HOUSTON, HARRIS COUNTY, TEXAS

SITE LAYOUT PLAN

OCTOBER, 2005

FIGURE NUMBER
2-1

Compliance History Report

Customer/Respondent/Owner-Operator: CN602656142 Ruffino Hills Transfer Station, LP Classification: AVERAGE Rating: 3.38

Regulated Entity: RN101664233 RUFFINO HILLS TRANSFER STATIO Classification: AVERAGE Site Rating: 3.75

ID Number(s):

MUNICIPAL SOLID WASTE PROCESSING	PERMIT	1355
MUNICIPAL SOLID WASTE PROCESSING	PERMIT	1355A
MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1238
AIR NEW SOURCE PERMITS	REGISTRATION	80948

Location: 9720 RUFFINO RD, HOUSTON, TX, 77031

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 04, 2010

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Compliance Period: August 04, 2005 to August 04, 2010

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

Name: BOBBIE ROGANS Phone: 239 - 6197

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

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 12/20/2007 (599176)

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

Date: 12/19/2007 (599176) CN602656142 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 330, SubChapter F 330.117(b)
30 TAC Chapter 330, SubChapter G 330.150(5)(A)
Description: Failure to unload waste in an authorized area.

Classification: Moderate
Self Report? NO
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
Description: Failure to properly manage diesel storage tank to prevent leakage.

Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 330, SubChapter T 330.955(a)
Description: Failure to prevent the disturbance of the final cover of a landfill.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

August 18, 2010

DESCRIPTION OF APPLICATION

Applicant: Ruffino Hills Transfer Station, LP
Ruffino Hills Transfer Station
MSW Permit Application No. 1355A

Type: Type V Municipal Solid Waste Facility

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The Executive Director of the Texas Commission on Environmental Quality has made the preliminary decision that municipal solid waste permit, Permit No. 1355A, to Ruffino Hills Transfer Station, LP, if issued, meets all statutory and regulatory requirements.

ATTACHMENT E
EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
Ruffino Hills Transfer Station

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

TCEQ PERMIT APPLICATION NO. 1355A

2011 MAY 24 AM 9:40
CHIEF CLERKS OFFICE

APPLICATION BY	§	BEFORE THE
RUFFINO HILLS TRANSFER	§	
STATION, LP	§	TEXAS COMMISSION ON
FOR MAJOR AMENDMENT TO	§	
PERMIT NO. 1355A	§	ENVIRONMENTAL QUALITY

Executive Director's Response to Public Comment

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Application by Ruffino Hills Transfer Station, LP (Applicant), for a major amendment to Municipal Solid Waste Permit Number 1355A and on the Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters from Mike Bercu, Fred Burnside, Anne Clutterbuck, Michaelene Craddock, Julie Cyprow, David Doyle, Margaret Ellis, Elaine Gaskamp, B.Z. Karachiwala (Director of Harris County Public Health & Environmental Services), Nancy Letness on behalf of the Greater Fondren Southwest Super Neighborhood Council #36, James McLane, Mehmet Okumus, Will Rountree, Oma Jean Stevenson, Debra Wilke, and Marcy Williams.

The Office of the Chief Clerk received timely, oral comments from Mike Bercu, Cindy Chapman, Michaelene Craddock, Becky Edmonson, Elaine Gaskamp, Lenny Holzband, Nancy Letness on behalf of the Greater Fondren Southwest Super Neighborhood Council #36, Mehmet Okumus, Naomi Ostfeld, David Robertson, Richard Rodriguez, Russell Schexnayder, Clyde Shelley, Rosamond Shelley, Walter Steets, Ron Stein, Judy Terry, Marcy Williams, and David Wizig at the public meeting held on March 24, 2011.

The Office of the Chief Clerk received timely, written comments from Bob Allen (Director of Harris County Pollution Control Services Department), Jim Chan, Stacey Fields, Erwin Gaskamp, Congressman Al Green, Nancy Letness on behalf of the Greater

Fondren Southwest Super Neighborhood Council #36, James McLane, Richard Rodriguez, Clyde Shelley, Rod Stevenson, and David and Debbie Wizig at the public meeting held on March 24, 2011.

This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.gov.

I. Background

A. Description of Facility

The Ruffino Hills Transfer Station is located on a 14.18-acre tract located in Harris County, approximately 2,400 feet southeast of the intersection of U.S. Highway 59 and the Sam Houston Tollway/Beltway 8 on Ruffino Road. The transfer station is a Type V municipal solid waste facility with a maximum waste transfer capacity of 850 tons per day (TPD). Currently the operating hours at the facility are from 5:00 am to 9:00 pm, Monday through Friday, and from 6:00 am to 8:00 pm, Saturday and Sunday, with waste acceptance hours from 7:00 am to 7:00 pm, Monday through Friday, and 8:00 am through 5:00 pm, Saturday and Sunday. If approved, the proposed amendment would increase the maximum capacity of the transfer station to 2,000 TPD, and establish operating hours from 3:00 am to 9:00 pm, seven days a week, with waste acceptance from 3:00 am to 7:00 pm, seven days a week. The Applicant would be allowed to store and process solid waste resulting from or incidental to municipal, community, institutional, and recreational activities, including garbage, putrescible waste, rubbish, ashes, brush, street cleaning waste, abandoned automobiles, and Class 2 and Class 3 industrial solid waste. The Applicant would not be authorized to accept hazardous waste, Class 1 non-hazardous industrial solid waste, regulated asbestos-containing materials, liquid waste, special waste other than Class 2 and Class 3 industrial solid waste, or any other prohibited waste as listed in Parts I/II, Section 3.1.1 of the Application.

B. Procedural Background

The Application was submitted on March 14, 2008, and declared administratively complete on April 16, 2008. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment was published on May 2, 2008, in the *Houston Chronicle*, and in Spanish on May 11, 2008, in the *Semana News*. The Executive Director completed the technical review of the Application on August 20, 2010, and prepared a draft permit. The Notice of Application and Preliminary Decision for Municipal Solid Waste Permit Amendment was published on October 15, 2010, in the *Houston Chronicle*, and in Spanish on October 14, 2010, in the *La Información*. The Notice of Public Meeting was published on March 4, 2011; March 11, 2011; and March 18, 2011 in the *Houston Chronicle*. A public meeting was held on March 24, 2011, at the Holiday Inn – Southwest Houston, 11160 Southwest Freeway, Houston, Texas. The comment period for this application closed on March 24, 2011. 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.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying and are located at Morris Frank Library, a Houston Public Library Express Location, 10103 Fondren, Brays Oaks Towers Building, Houston Texas, 77096.

II. Comments and Responses

Comment 1 (Noise):

Bob Allen, Mike Bercu, Jim Chan, Anne Clutterbuck, Michealene Craddock, Margaret Elllis, Stacey Fields, Elaine Gaskamp, Nancy Letness, Will Rountree, Clyde B. Shelley, Cecilia Vancas, Debra Wilke, Marcy Williams, David Wizig, and Debbie Wizig raised a concern that the proposed changes to the permit will increase noise levels from the facility. Margaret Elllis and Debra Wilke specifically noted that the new hours of operation will create problems with noise in the early morning hours when most residents are sleeping.

Response 1:

Section 330.239 of Title 30 TAC requires that the owner or operator of a transfer station provide screening or other measures that will minimize noise pollution and adverse visual impacts. Part IV, Section 17.0 of the Application indicates that waste transfer activities will occur within the building to minimize noise. Section 330.543(b) requires a minimum 50-foot buffer between the permit boundary and waste activities. Parts I/II, Figure 2-1, Site Layout Plan in the Application illustrates that the facility has a minimum buffer zone of 110 feet.

TCEQ rules do not specify limits on noise, but MSW facilities are generally prohibited from causing a nuisance under §330.15(a)(2). If noise creates a nuisance, please report the problem to the TCEQ Houston Regional Office at (713) 767-3500. The

Executive Director has determined that the information submitted in the Application meets the requirements of these rules.

Comment 2 (Noise Survey):

Erwin Gaskamp indicated that the TCEQ should perform a 24-hour noise survey along the permit boundary and develop a noise profile that meets legal requirements for residential areas.

Response 2:

While the Executive Director reserves the right to consider noise, particularly outside of authorized operating hours, as a nuisance, 30 TAC Chapter 330 has no specific provisions to assess noise and does not include requirements for the Commission or an applicant to perform noise surveys.

The City of Houston has a noise ordinance (Chapter 30, Noise and Sound Level Regulation) prohibiting some noise in excess of 68 dB(A), day or night. This permit amendment, if issued, would not authorize noise levels above those allowed by the City of Houston. Local law enforcement should be notified to enforce sound level limits within the city.

Comment 3 (Odor):

Bob Allen, Fred Burnside, Julie Cyprow, Margaret Ellis, Stacey Fields, Elaine Gaskamp, Nancy Letness, James McLane, Mehmet Okumus, Naomi Ostfeld, Will Rountree, Rosamond Shelley, Oma Jean Stevenson, Rod Stevenson, Cecilia Vancas, Debra Wilke, Marcy Williams, David Wizig, and Debbie Wizig expressed a concern that the proposed changes to the permit will exacerbate existing odor problems associated with the facility. Margaret Ellis and Debra Wilke noted that the Houston Health Department was called to investigate the odor problem at the facility, and noted during their investigation that the mister system was not operational.

Response 3:

Section 330.245(d) of 30 TAC requires a permittee to prevent nuisance odors from leaving the boundary of a facility. Part IV, Section 20.0 of the Application indicates that all waste transfer activities will take place within the transfer building and that odors will be controlled by buffer zones and the use of misters in the transfer building that will emit odor-neutralizing materials.

The Houston Department of Health and Human Services Bureau of Pollution Control and Prevention (BPCP) received and investigated two citizen complaints regarding odor from the Ruffino Hills Transfer Station. The first complaint was investigated by BPCP on March 25, 2010 and was unconfirmed; no odors were detected offsite of the transfer station. The second complaint was received and investigated on June 25, 2010. BPCP investigators noted that several of the nozzles that disperse deodorizer were not working and detected garbage odors downwind of the facility, which resulted in the issuance of a notice of violation for nuisance. On July 8, 2010, BPCP received a corrective action response from S. H. Seed on behalf of the Applicant. The response stated that he would replace malfunctioning nozzles the week of July 11th, adjust the flow of misting solution to maximize the system's capacity and remove excessively odorous materials as quickly as possible to reduce odors. The misters were operating during a site visit by TCEQ Central Office staff on March 24, 2011, and no significant odors were noted. As of March 21, 2011, BPCP had received no subsequent complaints regarding odor from the Ruffino Hills Transfer Station.

The Application contains sufficient information and the Executive Director has concluded that the Application meets TCEQ regulations. If objectionable odors occur, the owner or operator must initiate appropriate measures to alleviate the condition. Please report odor problems to the TCEQ Houston Regional Office at (713) 767-3500. For information on TCEQ odor complaint investigation procedures, interested persons are encouraged to visit:
http://www.tceq.state.tx.us/compliance/complaints/protocols/odor_protopdf.html.

Comment 4 (Environment, Public Health, Quality of Life):

Alma A. Allen, Mike Bercu, James Chan, Anne Clutterbuck, Stacey Fields, Elaine Gaskamp, Congressman Al Green, Nancy Letness, James McLane, Mehmet Okumus, Naomi Ostfeld, David W. Robinson, Richard Rodriguez, Clyde Shelley, Oma Jean Stevenson, Marcy Williams, David Wizig and Debbie Wizig raised general and specific concerns that the proposed changes to the permit will have a negative effect on the environment, public health, and quality of life.

Response 4:

For Municipal Solid Waste facilities, the Executive Director protects human health and the environment through the enforcement of 30 TAC Chapter 330 and other applicable regulations. The TCEQ rules are protective of human health and the environment, and if the facility is operated in accordance with the rules and the draft permit human health and the environment will be protected. With the changes noted at the end of this Response to Public Comment, it has been determined that the Application meets all applicable rules and is technically complete.

Comment 5 (Noise, Odor, Air Pollution):

Larry Holzband asked if the facility will be required to increase equipment to address additional noise, odors and air pollution.

Response 5:

There is no specific requirement under 30 TAC Chapter 330 to meet a prescribed ratio of equipment to daily acceptance rate of waste. 30 TAC Chapter 305 does not require an amendment application to proportionally increase equipment relative to an existing permit.

The existing buffers and the fact that transfer operations are conducted within a structure are expected to prevent nuisance noise and odor issues; however, should they occur, prohibitions on nuisance conditions and procedures for reporting them are

addressed elsewhere in this response. Air emissions from the facility will be authorized under 30 TAC Chapter 330, Subchapter U and so human health and the environment are presumed to be protected against air pollution from the facility.

Comment 6 (Vectors):

Fred Burnside, Jim Chan, Michaelene Craddock, Margaret Ellis and Debra Wilke raised a concern that the proposed changes to the permit will increase the presence of vectors, specifically insects or rodents.

Response 6:

TCEQ rule §330.15(a)(2) provides a general prohibition of practices that create nuisance conditions. Among possible nuisance conditions is the uncontrolled presence of vectors. Section 330.209(a) requires that all solid waste be stored in a manner that does not provide food or harborage for animals and vectors. Additionally, section 330.241(a) of 30 TAC prohibits the accumulation of solid waste in quantities that cannot be processed quickly enough to prevent nuisance conditions. Part IV, Section 22.2 of the Application indicates that the permittee will wash surfaces that come into contact with waste at least daily and store waste within the transfer building or within tarped transfer trailers, and if necessary will retain professional exterminators.

The Executive Director has determined that the information submitted in the Application meets the requirements of this rule.

Comment 7 (Traffic Hazard):

Alma A. Allen, Bob Allen, Mike Bercu, Jim Chan, Michealene Craddock, David Doyle, Becky Edmonson, Margaret Elllis, Stacey Fields, Elaine Gaskamp, Congressman Al Green, HCID, Larry Holzband, Nancy Letness, Mehmet Okumus, David Robertson, Richard Rodriguez, Clyde B. Shelley, Cecilia Vancas, Debra Wilke, Marcy Williams, David Wizig, and Debbie Wizig raised a concern that the increase in tonnage and operating hours will increase the number of large vehicles entering and exiting the

facility, thus creating a traffic hazard. David Doyle and Nancy Letness indicated that access roads for the facility are inadequate to accommodate the large vehicles that enter and exit the property. Several of these commenters indicated that the exit for the facility is improperly designed, which makes it necessary for large trucks to block several lanes of traffic on the Beltway 8 frontage road while turning. Nancy Letness indicated that Table 4-9 states the capacity of Ruffino Road but not the condition of the road, and that Ruffino Road has not been updated in over 30 years.

Response 7:

In Parts I/II, Section 4.2 and Parts I/II, Appendix A-3, the Applicant has provided information required by 30 TAC §330.61(i), which considers the availability and adequacy of roads that the facility will use; volumes of vehicular traffic on roads within one mile of the facility, both existing and expected; projected volumes of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility; and documentation of coordination of all designs of proposed public roadway improvements. Appendix A-3 provides copies of correspondence between the Applicant and the Texas Department of Transportation (TxDOT). The Application indicates that TxDOT is responsible for maintenance of Beltway 8 (the Sam Houston Tollway access roads) and the City of Houston is responsible for Ruffino Road. The correspondence documents approval of the design for Ruffino Road by TxDOT and City of Houston Public Works and Engineering Department. The Executive Director relies on input from the Texas Department of Transportation and local agencies to assess the appropriateness of roads to be used by a Municipal Solid Waste facility.

The Executive Director has no authority over traffic violations. State and local traffic law enforcement agencies are charged with enforcing traffic laws and ticketing truck drivers who violate traffic laws, including reckless driving or failure to respect the rights of way of other vehicles.

Comment 8 (Traffic Calculations):

Nancy Letness shared concerns over information provided in the Application regarding traffic. She indicated that the calculations for percent traffic related to the transfer station on West Belfort and Beltway 8/Tollway are incorrect. She further stated that traffic count information indicates that there are 60,000 vehicles per day (vpd) on both the Sam Houston Tollway and on Beltway 8, but that it is very unlikely that the Tollway and Beltway have equal traffic counts. Elaine Gaskamp indicated that it is imperative that new traffic studies be conducted.

Response 8:

The Applicant has provided information required by 30 TAC Section 330.61 (i) relating to volumes of vehicular traffic on roads within one mile of the facility. The Executive Director has found that the information provided for traffic was sufficient to meet the requirements of the cited rule at the time that the Application was administratively complete. TCEQ rules do not require that traffic information be updated while the Application is under consideration. TxDOT and the City of Houston Public Works and Engineering Department approved the designs and implicitly approved the proposed traffic rates for the designated access roads. The 60,000 vpd value is a combined count for the Tollway and the Beltway, not a count for each

Comment 9 (Land Use Compatibility):

Anne Clutterbuck, Michealene Craddock, Julie Cyprow, Elaine Gaskamp, Nancy Letness, Richard Rodriguez, Will Rountree, Walter Steets, Judy Terry, and Adam J. Weiss expressed a concern that the activities conducted at the facility are not compatible with land uses in the surrounding area. Several of these commenters noted that the facility is close to residential areas, businesses, or areas that children will frequent and that the facility should be located somewhere else.

Response 9:

Section 330.61(h) states that "a primary concern is that the use of any land for a municipal solid waste site not adversely impact human health or the environment." To assist the Commission in determining potential adverse impact, the Applicant must submit information regarding: zoning at the site and within two miles of the proposed facility; character of surrounding land uses within one mile of the proposed facility; growth trends within five miles of the facility and directions of major development; proximity to residences and other uses, such as schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality; the approximate number of residences and business establishments within one mile of the proposed facility and distances and directions to the nearest residences and businesses; and a description and discussion of all known wells within 500 feet of the proposed site. The final agency decision on land use compatibility is made by the Commissioners. The Executive Director reviews the Application to ensure that adequate information has been provided to assist the Commissioners in the determination. Review of the Application indicates that the required information is provided in Parts I/II, Chapter 4.

The Executive Director has no authority to require relocation of a proposed or existing municipal solid waste facility, but must assess any application against applicable rules.

Comment 10 (Property Values):

Michaelene Craddock, Julie Cyprow, and Stacey Fields indicated concern that the facility would lower property values.

Response 10:

The jurisdiction of the TCEQ is established by the Legislature and is limited to the issues set forth in statute and rules. When evaluating an application for a municipal solid waste permit amendment, the Executive Director is not authorized to consider the effect that a facility would have on property values.

Comment 11 (Land Use Information):

Nancy Letness and Richard Rodriguez stated that the land use information is not current. Nancy Letness, Mehmet Okumus, and Richard Rodriguez specifically noted the recent construction of the Turquoise Center, located less than 1,000 feet south of the transfer station, which is shown in the Application to be undeveloped property. Nancy Letness stated that four parks (Marion Park, BVW Subdivision Park, East Glenshire Park, and West Glenshire Park) were not included in land use analysis.

Response 11:

Parts I/II, Section 4.1 provides information required under 30 TAC §330.61(h). With exceptions to follow, the Executive Director believes that the information provided was accurate and sufficient to meet the requirements of the cited rule at the time that the Application was administratively complete. TCEQ rules do not require that land use information be updated while an application is under review.

It appears that Marian Park is more than one mile from the facility and so §330.61(h) would not require its discussion. The other parks have been characterized in the land use information as residential, which is a conservative assumption. The Executive Director has directed the Applicant to include the parks within one mile of the permit boundary in the discussion on recreational areas but has not required a change to the land use map as the information provided substantially complies with this rule based on land use at the time that the Application was administratively complete.

Comment 12(Exceptional Aesthetic and Historical Sites):

Nancy Letness and Walter Steets noted that the Application does not include information on the Turquoise Center, which she feels is of exceptional aesthetic quality, or of the historical significance of the Riceville Cemetery.

Response 12:

As noted above, the Turquoise Center had not been constructed at the time the Application was submitted. The Riceville Cemetery is discussed in Parts I/II, Section 4.1.4; however, no reference is made to historical significance. Historical sites and sites with exceptional aesthetic quality are identified by coordination with the Texas Historical Commission (THC). Parts I/II, Appendix A-2 provides a coordination letter and the response from the THC that indicates "no historic properties affected project may proceed." Chapter 330 does not require that land use information be updated while an application is being reviewed.

Comment 13 (Damage to Economic Development):

Elaine Gaskamp stated that the proposed application will be harmful to economic development in the area.

Response 13:

The TCEQ's jurisdiction is established by the Legislature, and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ has no rules or regulations that require applicants to consider impacts on property values, taxes, local economies, or local businesses. The Executive Director's review of a permit application considers whether the proposed facility meets the requirements of Chapter 330 of the Commission's rules. In addition, section 305.122(c) of the TCEQ's rules provide that the issuance of a permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulation.

Comment 14 (Fuel Tanks):

Nancy Letness cited concern over apparent fuel tanks at the facility and requested information about their use, whether secondary containment is in place, and how the facility would respond in the event of a leak.

Response 14:

Chapter 330 of 30 TAC does not require an applicant to provide information regarding fuel storage, and so the Application does not provide information regarding these tanks. The tanks were noted during a site visit before the public meeting held March 24, 2011. The Applicant's consultant was contacted for information regarding these tanks. According to the Applicant, there is a 1,000-gallon and an 8,000-gallon fuel tank located at the facility. They are double-walled to provide secondary containment. The facility has a Spill Prevention Control and Countermeasure (SPCC) plan updated in October 2010.

SPCC requirements are regulated under 40 Code of Federal Regulations Chapter 112 by the United States Environmental Protection Agency (USEPA). Questions or concerns regarding SPCC requirements or complaints regarding these tanks may be directed to Donald Smith, USEPA Oil Program Lead, at smith.donaldp@epa.gov.

Comment 15 (Litter Cleanup):

Fred Burnside provided concern over pickup of windblown waste on and near the facility. Nancy Letness requested details regarding litter cleanup on the facility and for a distance of two miles in either direction along roads used to access the facility, specifically which roads, whether all vehicles delivering garbage were included, and who should be called if litter is detected within two miles of the site. Cindy Chapman indicated that there has been illegal dumping near the facility.

Response 15:

Ms. Letness refers to requirements for municipal solid waste transfer stations under § 330.233 and § 330.235. Section 330.233 requires pickup of waste onsite at least once a day on days the facility is operating. In Part IV, Section 15.0 of the Application, the Applicant affirms that the facility will meet this requirement. Section 330.235 requires pickup of waste along roads being used by the facility. The rule does not apply to specific vehicles, but to all waste materials spilled within the rights-of-way of public access roads if that road is used to deliver waste to or remove waste from the transfer

station. Cleanup must be performed at least daily on days that the facility is operating. In Part IV, Section 15.0 of the Application, the Applicant affirms that the facility will meet this requirement. Parts I/II, Table 4-9 defines the access roadways as Ruffino Road, West Belfort Road, U.S. Highway 59 and associated access roads, and the Sam Houston Tollway and associated access roads (Beltway 8).

Please note that the two mile distance is measured along applicable roads, not radially from the facility. These requirements would include illegally dumped materials within these areas. If litter is detected on applicable roads within two miles of the site, the facility may be contacted to address the issue. If the issue is not addressed by the facility, or there is a desire to make a complaint, the TCEQ Houston Regional Office should be called at (713) 767-3500.

Comment 16 (Incinerators):

Elaine Gaskamp requested that the public record be noted to indicate that the citizens do not want incinerators at the site.

Response 16:

The Executive Director acknowledges the comment. No incinerator is proposed under this Application. Should the Applicant wish to propose the addition of an incinerator in the future, another permit amendment application would be required, including all applicable public notice.

Comment 17 (Watershed Error):

Nancy Letness and Russell Schexnayder identified errors in the Part I form and in Parts I/II of the Application regarding the watershed and basins within which the facility is located and surface water drainage paths from the facility.

Response 17:

The Executive Director has directed the Applicant to correct these errors.

Comment 18 (Surface Water and Groundwater Quality):

Becky Edmonson, Nancy Letness and Russell Schexnayder expressed concern over the effects that this facility will have on surface water quality and groundwater quality.

Response 18

Groundwater and surface water are protected at Municipal Solid Waste processing facilities by control of waste and any wastewater, including water that has contacted waste or surfaces that have contacted waste. Part III, Section 2.3 of the Application indicates that waste will be processed on a concrete tipping floor within the processing building. Water from waste or from cleaning of the tipping floor will drain into the loading bay and discharge through a trench drain to the City of Houston sanitary sewer system. The Executive Director has concluded that the submitted information meets the requirements for protection of surface water and groundwater under § 330.63(b)(4).

Comment 19 (Water Wells):

Nancy Letness noted that the Application states that there are no known water wells within 500 feet of the permit boundary, but then indicated that there is a capped water well on the Ruffino Hills site and an open water well on the West University property, which lies immediately east of the permit boundary.

Response 19:

Section 330.61(h)(5) of TCEQ's rules requires a description and discussion of all known wells within 500 feet of the proposed facility, and 30 TAC § 330.61(l)(1) requires notification of all existing or abandoned water wells within the permit boundary. The onsite well was plugged and abandoned on December 14, 2004.

For the purposes of 30 TAC §330.61(h)(5), the Executive Director expects a complete list of wells recorded with the Texas Water Development Board (TWDB). Wells on private property that are not recorded with the TWDB are beyond due diligence requirements for reporting. The Applicant made an attempt to locate the well during a site visit but was unable to do so. The Applicant has met due diligence expectations and the Application is substantially compliant with rule requirements but will be directed to provide a reference to a known, but unlocated, well on the West University Property.

The Executive Director has directed the Applicant to include brief discussions of these wells in the Application.

Comment 20 (Public Meeting):

Margaret Ellis, on behalf of the Glenshire Community Association, Debra Wilke, and Nancy Letness requested the TCEQ to hold a public meeting so that local residents could ask questions and voice their concerns regarding the permit application.

Response 20:

In response to significant public interest, a public meeting was held March 24, 2011, at the Holiday Inn – Southwest Houston, 11160 Southwest Freeway in Houston.

Comment 21 (Previous Litigation):

Michael Bercu asked if the TCEQ has considered previous litigation between the Applicant and neighborhood groups. Michael Bercu and Larry Holzband stated that the previous owners of the facility had promised not to seek an expansion.

Response 21:

The Executive Director has received no evidence of legally binding agreements involving the Applicant or this facility and so none were considered in the evaluation of

this Application. The Executive Director did not consider previous litigation between the Applicant and the neighborhood groups.

Comment 22 (Type of Application):

Michael Bercu asked if the Application is major or minor amendment.

Response 22:

The Application for amendment would increase the daily acceptance rate at a Type V processing facility and is therefore a major amendment as identifiedby §305.62(j)(1)(C).

Comment 23 (Endangered Species):

B.Z. Karachiwala suggested that Section 4.3.1 in Part I/II of the Application, regarding Geology and Soils, failed to describe the Edna and Bernard-Edna soils located on the site. Mr. Karachiwala indicated that this is important because pimple mounds, or "mima mounds," can occur in these soils, and are often home to the endangered Texas Prairie Dawn. Mr. Karachiwala suggested that the Application should be updated to include this soil information, that a registered Professional Geoscientist with experience in pimple mounds inspect the site and, if pimple mounds are found, the Applicant should perform a new Endangered Species Assessment between March and mid-summer (the flowering period for the Texas Prairie Dawn).

Response 23:

Section 330.61(n)(1) requires applicants to consider the effect that a solid waste facility will have on endangered or threatened species. This is typically addressed through a threatened and endangered species assessment. TCEQ rules do not specify the time of year that these assessments must be performed or who must perform them. The Applicant has provided a threatened and endangered species assessment, performed by Berg Oliver Associates, Inc., on September 25, 2007. The assessment report, dated

February 26, 2008 and provided in Parts I/II, Appendix B-3, indicates that no threatened or endangered species were observed and that the site does not contain suitable habitat for any state or federally listed threatened or endangered species identified as potentially occurring in Harris County. The Executive Director has concluded that the submitted information meets the requirements of 30 TAC §330.61(n).

Comment 24 (Facility Closure):

Michaelene Craddock stated that the transfer station should be closed.

Response 24:

The Executive Director may require a facility to close if it fails to comply with the terms and conditions of their permit, if it violates state or federal regulations, or if there is an emergency requiring immediate action to protect the public health and safety. The Executive Director is unaware of any existing condition that would necessitate this action.

Comment 25 (Errors Regarding Legislator):

Nancy Letness noted that the Part I form provides the incorrect State Congressional District and State Representative.

Response 25:

The Executive Director has directed the Applicant to correct this error.

Comment 26 (Environmental Justice):

Nancy Letness expressed her concern that this facility represents an environmental injustice to the surrounding community.

Response 26:

Although the TCEQ and USEPA collaborate on the cumulative effects from permitting activities, rules, and policies of both agencies, the EPA has primary jurisdiction over environmental justice or Title VI concerns. The EPA website www.epa.gov/compliance/environmentaljustice notes that environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. When evaluating permits, the TCEQ considers the surrounding community without regard to its socioeconomic or racial status.

The TCEQ Environmental Equity program was designed to help the community with this issue. Low-income and minority communities may feel that they are burdened with a disproportionate share of environmental risks. Hostilities can develop between these communities and the industries or facilities involved, making good-faith efforts to resolve disputes, address concerns, and seek solutions ineffective. The Environmental Equity Program was established in 1993 to help counter this trend by improving communication between government, local communities, and neighboring industries. Individuals may raise environmental equity or environmental justice concerns with TCEQ staff through a toll-free number, 1-800-687-4040, or at:

Environmental Equity (MC-108)
Texas Commission on Environmental Quality
P.O. Box 13087Austin, TX 78711-3087
512/239-4000
512/239-4007 (fax)
opa@tceq.state.tx.us
http://www.tceq.texas.gov/agency/opa/envequ.html

Comment 27 (Environmental Impact Study):

Congressman Al Green and Richard Rodriguez expressed concern that the Applicant has not performed an environmental impact study.

Response 27

Environmental impact studies are not specifically required by TCEQ rules. Some possible components of an environmental impact study are required, such as water well surveys under 30 TAC §330.61(h)(5), general geology and soils statement under 30 TAC §330.61(j), information about groundwater and surface water conditions at the site under 30 TAC §330.61(k), floodplains and wetlands statement under §330.61(m), and endangered or threatened species information under 30 TAC §330.61(n). The Executive Director has concluded that the submitted information meets the requirements of the cited rules.

Comment 28 (Other Local Solid Waste Facilities):

Cindy Chapman and Russell Schexnayder noted that there are other facilities in the area about which neighbors have not complained because they are well run and reasonable.

Response 28:

The Executive Director is not authorized to consider the relative level of complaints of nearby facilities in the evaluation of an application.

Comment 29 (Facility Monitoring by TCEQ):

Naomi Ostfelt asked how often the facility will be monitored by the TCEQ and for how long.

Response 29:

Municipal solid waste facilities are monitored through periodic site inspection by TCEQ Regional Office staff. In addition, the Regional Office will investigate the facility in response to formal complaints. This continues throughout the life of the facility.

Changes Made to the Draft Permit in Response to Comments

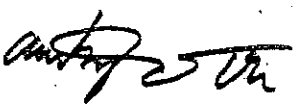
No changes were made to the draft permit, however the Applicant has been directed to do the following: correct errors regarding the watershed and basins within which the facility is located, the surface water drainage paths from the facility, and the legislative district and contact; include identified parks in the discussion on recreational areas; include a discussion of the water well that was located within the permit boundary and the well that is located on the adjacent property to the east.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division



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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

Certificate of Service

I certify that on May 23rd, 2011 the "Executive Director's Response to Public Comment" for Permit Application No. 1355A was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

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