

TCEQ DOCKET NO. 2012-2222-MSW

**APPLICATION BY
CCAA, LLC
FOR MUNICIPAL SOLID WASTE
PERMIT NO. 2376**

§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**Executive Director's Response to Hearing
Request 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 Request and Requests for Reconsideration (Response) on the Application of CCAA, LLC (the Applicant) for a new Municipal Solid Waste (MSW) Permit No. 2376. The Office of the Chief Clerk received a timely request for reconsideration and hearing request from John Bounds on behalf of the Concerned Citizens for Safety, Health and Justice (CCSHJ). In addition, the Office of the Chief Clerk received timely requests for reconsideration from Beverly Young, Al W. Lister, Dr. E. Dean Gage, and Robert Marshall.

Attached for Commission consideration are the following:

- Attachment A – GIS Map
- Attachment B – Landowner Map & Landowner 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 Brazos Valley Disposal Facility is proposed to be located on 42.24 acres of land of which approximately 31.88 acres will be used for waste disposal. The facility would be located in Brazos County, approximately 1,300 feet northwest of the intersection of Stewarts Meadow and FM 60 (Raymond Stotzer Parkway) within the extraterritorial jurisdiction of the City of College Station. The facility is a Type IV municipal solid waste landfill. The proposed permit would establish operating and waste acceptance hours from 7:00 am to 7:00 pm, Monday through Friday, and 7:00 am to 2:00 pm on Saturday. The facility would be closed on Sundays. The Applicant would be allowed to dispose of brush, construction or demolition waste, rubbish, inert material as defined in 30 Texas Administrative Code (TAC) §330.3(67), Class 3 non-hazardous industrial solid waste, and non-regulated asbestos-containing materials. Class 2 non-hazardous industrial solid waste may be accepted to the extent that they comply with the limitations in 30 TAC §330.5(a)(2). The Applicant would not be authorized to accept hazardous waste, Class 1 non-hazardous industrial solid waste, regulated asbestos-containing materials, household waste, putrescible waste, liquid waste, special waste, or any other prohibited waste as listed in Part IV, Section 4.2.1 of the Application.

III. Procedural Background

The Application was submitted on June 3, 2011, and declared administratively complete on June 15, 2011. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit was published on July 8, 2011 in the Bryan Eagle, and in Spanish on July 8, 2011 in the La Voz Hispana. The Executive Director completed the technical review of the Application on April 2, 2012, and prepared a draft permit. The Notice of Application and Preliminary Decision for Municipal Solid Waste Permit Application was published on May 11, 2012 in the Bryan Eagle, and in Spanish on May 11, 2012 in the La Voz Hispana. The

Notice of Public Meeting was published on June 27, 2012; July 3, 2012; and July 10, 2012 in the Bryan Eagle. A public meeting was held on July 19, 2012 at the Brazos County Expo Complex, 5827 Leonard Road, Bryan, Texas. The comment period for this Application closed on July 19, 2012. 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. 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 TAC Chapters 39, 50, and 55. This Application was declared administratively complete on June 15, 2011; 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.

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 Request

A. Analysis of the Hearing Request

The Executive Director has analyzed the hearing request to determine whether it complies 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.

Whether the Requestor Complied with 30 TAC §§ 55.201(a)(c) and (d)

John Bounds submitted a hearing request on behalf of CCSHJ that substantially complies with 30 TAC §§ 55.201 (a), (c) and (d). The period for timely filing a request for a contested case hearing on the Application ended on October 24, 2012. The Office of the Chief Clerk received the request for a contested case hearing from CCSHJ on October 24, 2012, which includes the organization’s contact information in accordance with 30 TAC § 55.201 (d)(1). The request raises issues listed below. CCSHJ is an affected person under 30 TAC §§55.103 and 55.203. Its request identified its personal justiciable interest in accordance with 30 TAC §§ 55.201(d)(2) and 55.205, concerning requests for hearings by groups or associations. The request identified members of the group, including Barry Lister, Jamonia Wade, Ed Bounds, John Bounds, Dr. E. Dean Gage, and Martha Williams, who would otherwise have

standing to request a hearing in their own right. The Executive Director has determined that the members identified are affected persons under 30 TAC §§ 55.103 and 55.203. Additionally, the request purports that the interests the organization seeks to protect are germane to the organization's purpose. The request describes the organization's mission as "...to protect the health, safety, proper land use and environmental justice of the citizens adversely affected and impacted by approval of Permit 2376." Finally, the claim asserts that the relief requested does not appear to require the participation of the individual members in this case. CCSHJ's request substantially meets the requirements of 30 TAC § 55.201(d) and satisfies the criteria in 30 TAC § 55.205. Therefore, the Executive Director recommends that the Commission find CCSHJ is an affected person under 30 TAC §§ 55.103 and 55.203 and grant the request.

Please note that the Commission's Office of the Chief Clerk designated the September 4, 2012, letter from Dr. E. Dean Gage as a request for a contested case hearing. The Executive Director interpreted this letter as a request for a public meeting and for reconsideration.

Whether the Requestor is an Affected Person

CCSHJ submitted a hearing request that successfully demonstrated that it has a personal justiciable interest in this Application. The request identifies approximately 130 members. The Executive Director has generated Attachment A (GIS Map) to show the location of 6 members of the group relative to the proposed landfill. The residences of Barry Lister, Jamonia Wade and Ed Bounds all appear to be located within one half mile of the proposed landfill. The residences of John Bounds, Dr. E. Dean Gage, and Martha Williams all appear to be located within a mile of the proposed landfill. CCSHJ expresses concerns that the proposed activity will have an impact on the use of property by area residents. CCSHJ raises several relevant issues, such as concerns about air emissions, the landfill being located in the floodplain, potential to contaminate ground water and surface water, adequacy of roads for traffic, land use compatibility, inadequate public notice, and inconsistency with the Regional Solid Waste Plan. CCSHJ's interest in its members use of their property is potentially affected by all of these issues, and these issues are addressed

by the law under which the Application is being considered. 30 TAC Chapter 330. Furthermore, there is a reasonable relationship between the interests claimed and the activity regulated due to these members close proximity to the facility. Accordingly, CCSHJ has an interest in the Application that is not common to members of the general public.

The attached Landowner Map and List identifies property owners within ¼ mile of the proposed facility. *See Attachment B.*

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

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

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

1. Whether the Application and Draft Permit include adequate controls for windblown particulates?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Nos. 2 and 17. 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 proposed landfill is located in the 100-year floodplain?

This issue was raised and addressed in the Executive Director's Response to Public Comment, No. 15. 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 and Draft Permit include adequate provisions to protect ground water and surface water?

This issue was raised and addressed in the Executive Director's Response to Public Comment, Nos. 6 and 7. 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 existing roads are adequate to accommodate traffic from the landfill?

This issue was raised and addressed in the Executive Director's Response to Public Comment, No. 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.

5. Whether the landfill would be incompatible with land use in the area?

This issue was raised and addressed in the Executive Director's Response to Public Comment, No. 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.

6. Whether the Applicant provided public notice in compliance with TCEQ's rules?

This issue was raised and addressed in the Executive Director's Response to Public Comment, No. 18. 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.

7. Whether the landfill would be incompatible with Brazos Valley Council of Governments approved solid waste management plan?

This issue was raised and addressed in the Executive Director's Response to Public Comment, No. 9. 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

CCSHJ filed a request for reconsideration included in its hearing request discussed above. **CCSHJ's** request is based the issues discussed above related to its hearing request. Other commenters raised these issues during the comment period, and the Executive Director responded to them in his Response to Public Comments. The Executive Director also recommended referring these issues to SOAH for full consideration during a contested case hearing. The Draft Permit complies with all applicable statutes and regulations, and **CCSHJ** 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.

Dr. E. Dean Gage filed a request for reconsideration on September 14, 2012. Dr. Gage's request is based on some of the issues discussed above related to the hearing request. Commenters raised these issues during the comment period, and the Executive Director responded to them in his Response to Public Comments. The Executive Director also recommended referring these issues to SOAH for full consideration during a contested case hearing. The Draft Permit complies with all applicable statutes and regulations, and Dr. Gage 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.

Beverly Young filed a request for reconsideration on October 24, 2012. Ms. Young's request is based on some of the issues discussed above related to the hearing request. Commenters raised these issues during the comment period, and the Executive Director responded to them in his Response to Public Comments. The Executive Director also recommended referring these issues to SOAH for full consideration during a contested case hearing. The Draft Permit complies with all applicable statutes and regulations, and Ms. Young 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.

Robert Marshall filed a request for reconsideration on September 14, 2012. Mr. Marshall's request is based on some of the issues discussed above related to the hearing request. Commenters raised these issues during the comment period, and the Executive Director responded to them in his Response to Public Comments. The Executive Director also recommended referring these issues to SOAH for full consideration during a contested case hearing. The Draft Permit complies with all applicable statutes and regulations, and Mr. Marshall 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.

Al W. Lister filed a request for reconsideration on October 18, 2012. Mr. Lister's request is based on some of the issues discussed above related to the hearing request. Commenters raised these issues during the comment period, and the Executive Director responded to them in his Response to Public Comments. The Executive Director also recommended referring these issues to SOAH for full consideration during a contested case hearing. The Draft Permit complies with all applicable statutes and regulations, and Mr. Lister 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.

VIII. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

- a) Find that **CCSHJ is affected** and grant its hearing request:
- b) Should the Commission find that any of the requestors are affected, the following issues should be referred to SOAH for a Contested Case Hearing for a duration of nine months:
 1. **Whether the Application and Draft Permit include adequate controls for windblown particulates?**
 2. **Whether the proposed landfill is located in the 100-year floodplain?**
 3. **Whether the Application and Draft Permit include adequate provisions to protect ground water and surface water?**
 4. **Whether the existing roads are adequate to accommodate traffic from the landfill?**
 5. **Whether the landfill would be incompatible with land use in the area?**
 6. **Whether the Applicant provided public notice in compliance with TCEQ's rules?**
 7. **Whether the landfill would be incompatible with Brazos Valley Council of Governments approved solid waste management plan?**

- c) Deny the requests for reconsideration submitted by CSHJ, Dr. E. Dean Gage, Beverly Young, Robert Marshall, and Al W. Lister.

Respectfully submitted,
Texas Commission on Environmental Quality
Zak Covar
Executive Director

Robert Martinez, Director
Environmental Law Division



Steven Shepherd, Staff Attorney
Environmental Law Division
State Bar No. 18224200
P.O. Box 13087, MC 173
Austin, TX 78711-3087
512-239-0464

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 4, 2013, the original and seven copies of the "Executive Director's Response to Hearing Request and Requests for Reconsideration" for CCAA, LLC, MSW Permit No.2376, 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.



Steven Shepherd, Staff Attorney
Environmental Law Division

MAILING LIST

CCAA, LLC

DOCKET NO. 2012-2222-MSW; PERMIT NO. 2376

FOR THE APPLICANT:

Charles Mancuso
CCAA, LLC Brazos Valley Disposal
Facility
P.O. Box 5449
Bryan, Texas 77805-5449
Tel: (979) 260-0006
Fax: (979) 260-9814

Al W. Lister
7534 Old Jones Road
College Station, Tx 77845
Tel. (979)268-0641

Robert Marshall
6165 Barnwood Dr.
College Station, Tx 77845

Brent Ryan
McElroy, Sullivan, Miller, Weber &
Olmstead, L.L.P.
1201 Spyglass Drive, Suite 200
Austin, Texas 78746-6925
Tel: (512) 327-8111 Fax: (512) 327-6566

FOR PUBLIC INTEREST COUNSEL:

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

FOR PERSONS REQUESTING
HEARING

Concerned Citizens for Safety,
Health and Justice
c/o John Bounds
9411 Twelve Oaks Lane
College Station, Tx 77845
Tel: (979)260-1519

FOR ALTERNATIVE DISPUTE
RESOLUTION:

Mr. Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010 Fax: (512) 239-4015

FOR PERSONS REQUESTING
RECONSIDERATION

Dr. E. Dean Gage
9561 Twelve Oaks Lane
College Station, Tx 77845

Beverly Young
7701 Jones Rd
College Station, Tx 77845-8076

Attachment A

GIS MAP

CCAA, LLC, MSW Landfill Permit 2376
Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



Texas Commission on Environmental Quality
 GIS Team (Mail Code 197)
 P.O. Box 13087
 Austin, Texas 78711-3087
 January 2, 2013

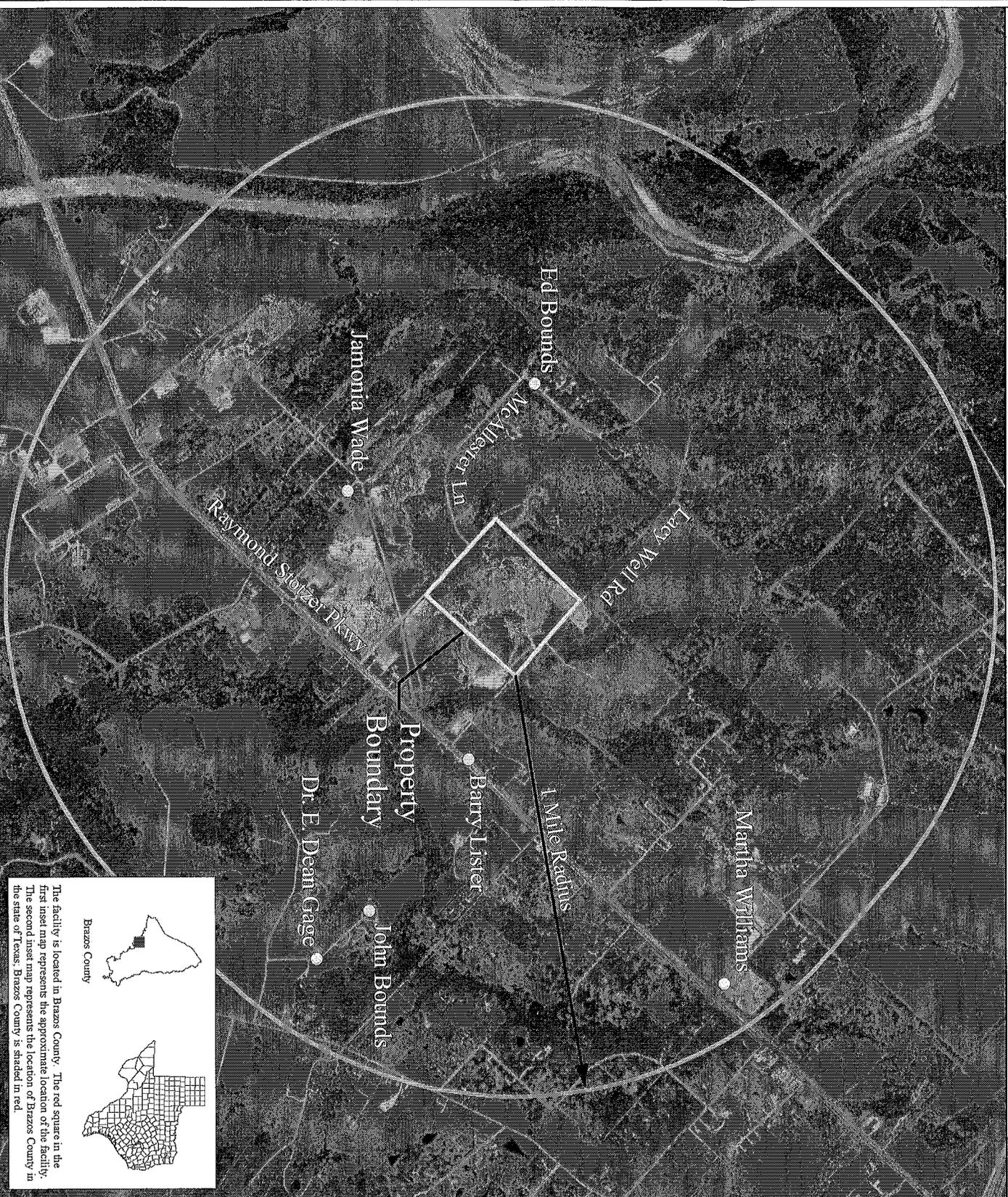
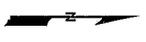


Projection: Texas Statewide Mapping System (TSSMS)
 Scale 1:21,000

- Legend**
- Property Boundary
 - Residents

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 Orthoregistry Project.

- This map depicts the following:
- (1) The approximate location of the property boundary. This is labeled "Property Boundary".
 - (2) Polygon and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
 - (3) Approximate locations of the residents.



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

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 Resources Division at (512) 239-4800.

Attachment B
Landowner Map & Landowner List

DATE	BY	REVISION
1/10/2011	YLA	RESPONSE TO 2ND NOO
2/1/2011	YLA	RESPONSE TO 1ST NOO

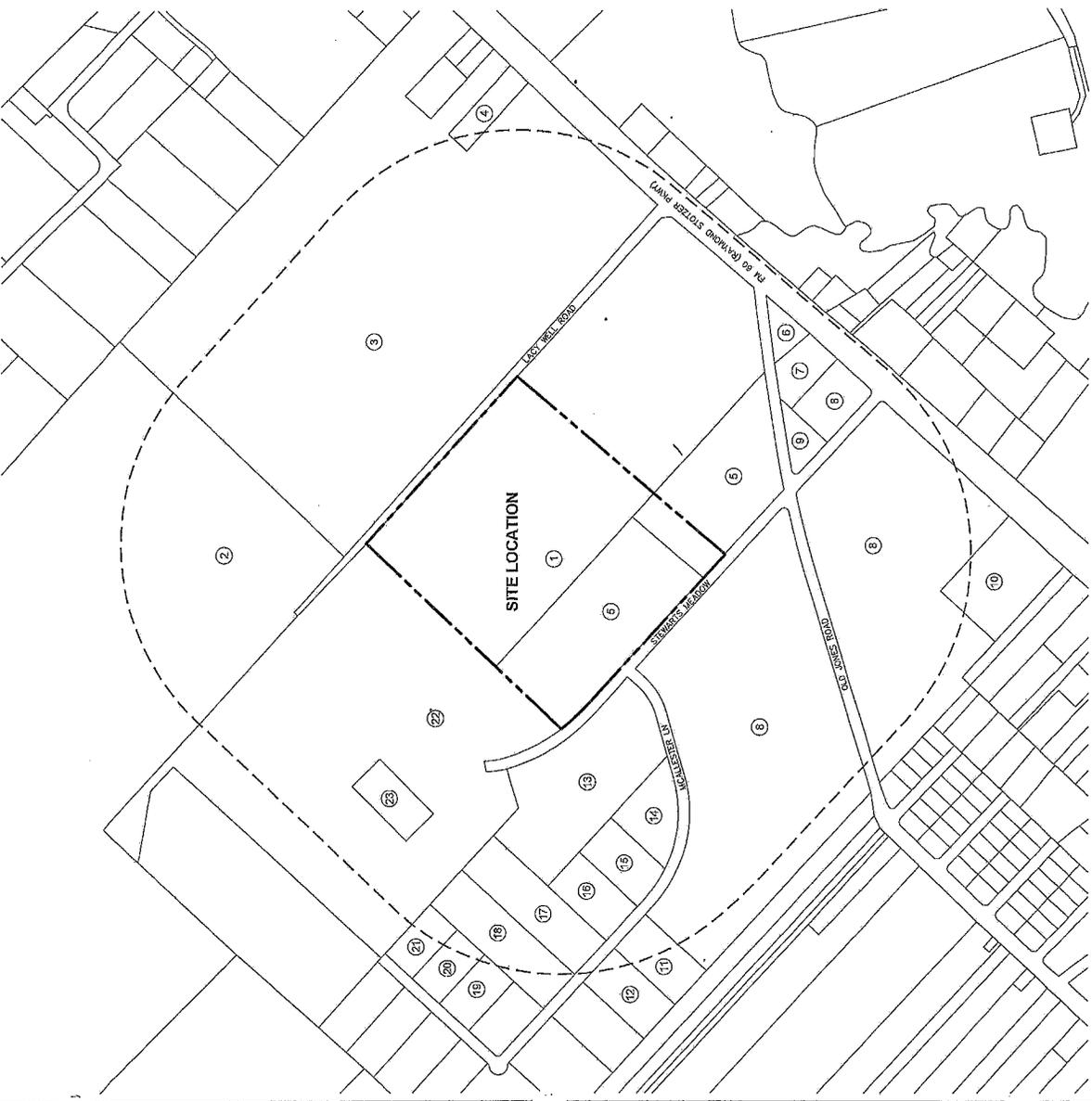


BRAZOS VALLEY DISPOSAL FACILITY
COLLEGE STATION, TEXAS
LAND AND MINERAL INTEREST
OWNERSHIP MAP AND LIST

PROJECT	DATE	BY
BRAZOS VALLEY DISPOSAL FACILITY	JANUARY 2011	YLA
SCALE	DATE	BY
1"=100'	10-14-08	YLA
FIGURE NUMBER		
1-4		

ADJACENT AND POTENTIALLY AFFECTED LANDOWNERS LIST

- 1 KELLY BERT DOOPER, INC.
200 W. 10TH ST. #21
BRYAN, TX 77802
- 2 DR. ROBERT JONES
820 LAKE FOREST CIRCLE N.
COLLEGE STATION, TX 77961
- 3 GIBSON JAMES ETAL
1000 W. 10TH ST. #21
COLLEGE STATION, TX 77961-4891
- 4 GREENMILTON
620 RAYMOND STROTZER PKWY
COLLEGE STATION, TX 77961-6891
- 5 CDA, LLC, NARCISO CHARLES V
7212 BOUTWELL DR
TEMPLE, TX 76788-2898
- 6 ST MARKS MESSIAH CHURCH
800 RAYMOND STROTZER PKWY
COLLEGE STATION, TX 77961-6891
- 7 KAY MESSIAH CHURCH
800 RAYMOND STROTZER PKWY
COLLEGE STATION, TX 77961-6891
- 8 PALASITA ROCK J
PO BOX 489
BRYAN, TX 77808-0489
- 9 GAYLE CHARLES M & MARLENE D
800 MALLISTER LN
COLLEGE STATION, TX 77961-6890
- 10 KEY ENERGY SERVICES GULF COAST
% TAX DEPARTMENT
1400 WESTERN BLVD #600
HOUSTON, TX 77010-3327
- 11 JENSEN MYKEL A & TRACIM
800 MALLISTER LN
COLLEGE STATION, TX 77961-6890
- 12 GAYLE CHARLES M & MARLENE D
800 MALLISTER LN
COLLEGE STATION, TX 77961-6890
- 13 SAUNDERS MARK & YVONNE E
800 MALLISTER LN
COLLEGE STATION, TX 77961-6897
- 14 CLEMONS CASSANDRA MARCEL
800 MALLISTER LN
COLLEGE STATION, TX 77961-6897
- 15 HENDERSON WILLIAM R & MARITHA JANE
DEL RIO, TX 78840-2117
- 16 HUYVA PHONG
7212 BOUTWELL DR
TEMPLE, TX 76788-2898
- 17 EDWARDS WILLIAM H & LINDA M
800 MALLISTER LN
COLLEGE STATION, TX 77961-6891
- 18 GILL RONALD J & CREBEL
800 HUTCHERSON HILL RD
COLLEGE STATION, TX 77961-6891
- 19 BOYO DEAN L R
800 MALLISTER LN
COLLEGE STATION, TX 77961-6891
- 20 BOYD TONYA L & BENJAMIN L
800 MALLISTER LN
COLLEGE STATION, TX 77961-6891
- 21 STREY OTTO PRITZ III & ALLEEN A
800 MALLISTER LN
COLLEGE STATION, TX 77961-6891
- 22 COOPER MALCOLM & PATRICIA A
800 MALLISTER LN
COLLEGE STATION, TX 77961-6891
- 23 GROFF DAVID G
800 MALLISTER LN
COLLEGE STATION, TX 77961-6891

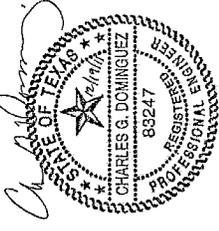


LEGEND

- PERMIT BOUNDARY
- QUARTER MILE RADIUS FROM PERMIT BOUNDARY
- LANDOWNER PROPERTY BOUNDARIES
- (12) ADJACENT LANDOWNER TRACT NUMBER

NOTES

1. PROPERTY AND MINERAL OWNERS NAMES AND MAILING ADDRESSES WERE RESEARCHED FROM BRAZOS COUNTY APPRAISAL DISTRICT REAL PROPERTY ACCOUNT INFORMATION RECORDS AS OF MARCH 24, 2011. PROPERTY OWNERS WHOSE NO MINERAL OWNERS WERE FOUND IN APPRAISAL RECORDS AT THIS TIME.
2. PROPERTY OWNERSHIP INFORMATION FOR PROPERTY OWNER NUMBERS 1, 2, AND 5 HAS BEEN UPDATED TO REFLECT CURRENT CONDITIONS.



GOLDER ASSOCIATES INC.
Professional Engineering Firm
Registration Number F-2578

INTENDED FOR PERMITTING PURPOSES ONLY

Attachment C
Compliance History

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603110115 CCAA, L.L.C.	Classification: AVERAGE	Rating: 8.23
Regulated Entity:	RN106152614 BRAZOS VALLEY DISPOSAL FACILITY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT		2376
Location:	8825 STEWARTS MDWS, COLLEGE STATION, TX, 77841		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	March 16, 2012		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	March 16, 2007 to March 16, 2012		

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? NO
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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

Texas Commission on Environmental Quality



Permit For Municipal
Solid Waste (MSW) Management Facility
Issued under provisions of Texas
Health and Safety Code
Chapter 361

MSW Permit No.: 2376
Name of Site Operator/Permittee: CCAA, LLC
Property Owners: CCAA, LLC and Kelly Burt Dozer, Inc. (separate tracts)
Facility Name: Brazos Valley Disposal Facility
Facility Address: 8825 Stewarts Meadow
College Station, TX 77845
Classification of Site: Type IV Municipal Solid Waste Management Facility

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

Approved, Issued and Effective in accordance with Title 30 Texas Administrative Code Chapter 330.

Issued Date:

For the Commission

Table of Contents

PART NO. 1 3

 I. Size and Location of Facility 3

 II. Waste Management Units and Operations Authorized..... 3

 III. Facility Design, Construction, and Operation 4

 IV. Financial Assurance..... 5

 V. Facility Closure 6

 VI. Site Completion and Closure7

 VII. Standard Permit Conditions7

 VIII. Incorporated Regulatory Requirements..... 9

 IX. Special Provisions 9

PART NO. 2..... 9

PART NO. 3..... 9

PART NO. 1

I. Size and Location of Facility

- A. The Brazos Valley Disposal Facility is located in the City of College Station in Brazos County, Texas approximately 1,300 feet northwest of the intersection of Stewarts Meadow and FM 60 (Raymond Stotzer Parkway)
- B. The legal description is contained in Parts I/II of the application found in Attachment A of this permit.
- C. Coordinates and Elevation of Site Permanent Benchmark:
 - Latitude: 30.57226067° N
 - Longitude: 96.40707784° W
 - Elevation: 287.21 feet above mean sea level (msl)

II. Waste Management Units and Operations Authorized

A. Days and Hours of Operation

The waste acceptance hours for the receipt and disposal of waste at this facility shall be any time between the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, and from 7:00 am to 2:00 pm on Saturday. The operating hours at this landfill which include the use of heavy equipment shall be any time between the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday and from 7:00 a.m. to 2:00 p.m. on Saturday.

B. Wastes Authorized at This Facility

Solid waste to be disposed of will consist of brush, construction or demolition waste, rubbish, class 3 non-hazardous industrial solid waste, inert material as defined in 30 Texas Administrative Code (30 TAC) Chapter 330, Section (§)330.3(67), and non-regulated asbestos-containing materials. Class 2 non-hazardous industrial solid waste may be accepted to the extent that they are consistent with 30 TAC §330.5(a)(2). The proposed landfill will not be able to accept waste materials other than those mentioned above.

C. Wastes Prohibited at This Facility

The proposed landfill will not be able to accept waste materials other than those identified in Section II.B. of this permit.

D. Waste Acceptance Rate

Authorized wastes will be accepted at an anticipated initial rate of approximately 400 tons per day increasing to approximately 800 tons per day in the fifth year. The landfill unit has an estimated life of approximately 7.4 years.

E. Waste Volume Available for Disposal

The total waste disposal capacity of the landfill is 4,243,800 cubic yards based upon the information contained in Section 3 of Part III, Attachment 3 found in Attachment A of this permit.

F. Waste Management Units Authorized

The permittee is authorized to operate a Type IV municipal solid waste landfill that utilizes a combination of an area excavation fill and aerial fill of the municipal solid waste landfill subject to the limitations contained herein. All waste disposal activities authorized by this permit are to be confined to this facility, which shall include disposal units, structures, appurtenances, or improvements: access roads, dikes, berms and temporary drainage channels, permanent drainage structures, detention ponds, landfill gas management system, contaminated water management systems, final cover, a groundwater monitoring system, a landfill liner system, and other improvements.

G. Changes, Additions, or Expansions

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

III. Facility Design, Construction, and Operation

A. Facility design, construction, and operation and/or maintenance must comply with the provisions of this permit; Commission Rules, including Chapter 330, Subchapters B, D, and G; 30 TAC §§330.331(d), 330.335 through 330.341, 330.417, 330.453, 330.463(a), 330.465, 330.467; Chapter 330, Subchapter M; Chapter 37, Subchapter R; special provisions contained in this permit; and Parts I through IV of the application found in Attachment A of this permit. The facility construction and operation shall be managed in a manner that protects human health and the environment.

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

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

- C. The site shall be designed and operated so as not to cause a violation of:
1. The requirements of §26.121 of the Texas Water Code;
 2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements of §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
 3. The requirements under §404 of the Federal Clean Water Act, as amended; and
 4. Any requirement of an area wide or statewide water quality management plan that has been approved under §208 or §319 of the Federal Clean Water Act, as amended.
- D. Contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §§330.305(g) and Part III, Attachment 3, Section 6.0 found in Attachment A of this permit. Other methods may be considered for approval as a modification to this permit.
- E. Best management practices for temporary erosion and sedimentation control shall remain in place until sufficient vegetative cover has been established to control and mitigate erosion on areas having final cover. Vegetative cover will be monitored and maintained throughout the post-closure care period in accordance with Part III, Attachment 8 found in Attachment A of this permit.
- F. Storm water runoff from the active portion of the landfill shall be managed in accordance with 30 TAC §§330.305(c) and 330.165(c), and as described in Part III found in Attachment A, Attachment 2 of this permit.
- G. The permittee shall comply with 30 TAC §330.59(f) and as described in Part I/II found in Attachment A of this permit. The permittee shall ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV found in Attachment A of this permit. All facility employees and other persons involved in facility operations shall obtain the appropriate level of training and/or certification as required by applicable regulations.
- H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to safe aircraft operations will require prompt mitigation actions.

IV. Financial Assurance

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

- B. At least 60 days prior to the acceptance of waste, the permittee shall provide financial assurance instrument(s) for demonstration of closure of the landfill in accordance with 30 TAC §§330.503. The closure cost estimate of \$956,288 (2011 dollars) is based on estimates as described in Part III, Attachment 9 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2011 until the year the permit is issued.
- C. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount for the entire landfill facility. The post-closure care cost estimate of \$282,862 (2011 dollars) is based on estimates as described in Part III, Attachment 9 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2011 until the year the permit is issued.
- D. The owner and/or operator shall annually adjust closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §§330.503 and 330.507, as applicable.
- E. If the facility's closure and/or post-closure care plan is modified in accordance with 30 TAC §305.70, the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.503, 330.463(b)(3)(D), and 330.507, as applicable. The amount of the financial assurance mechanism shall be adjusted within 45 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit shall be initiated as a modification within 30 days after the effective date of the new regulation.

V. Facility Closure

Closure of the facility shall commence:

- A. Upon completion of disposal operations and/or upon the landfill being filled to its permitted waste disposal capacity in accordance with Part III, Attachment 7 found in Attachment A of this permit;
- B. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director is authorized to issue emergency orders to the permittee in accordance with §§ 5.501 and 5.512 of the Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;
- C. Upon abandonment of the site;
- D. For failure to secure and maintain an adequate bond or other financial assurance instrument as required; or

- E. Upon the permittee's notification to the TCEQ that the landfill will cease to accept waste and no longer operate.

VI. Site Completion and Closure

The landfill shall be completed and closed in accordance with 30 TAC §330.453 and the applicable portions of 30 TAC §§330.457 through 330.465. Upon closure, the permittee shall submit to the Executive Director documentation of closure. Post-closure care and maintenance shall be conducted in accordance with Part III found in Attachment A of this permit, for a period of five years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.463(a).

VII. Standard Permit Conditions

- A. Parts I through IV, as described in 30 TAC §330.57(c), which comprise the Permit Application for MSW Permit No. 2376 are hereby made a part of this permit as Part No. 2: Attachment A. The permittee shall maintain Parts I through IV, as described in 30 TAC §330.57(c), at the facility and make them available for inspection by TCEQ personnel as required by 30 TAC §330.125. The contents of Part III of Attachment A of this permit shall be known as the "Site Development Plan," in accordance with 30 TAC §§330.63(a). The contents of Part IV of Attachment A of this permit shall be known as the "Site Operating Plan," in accordance with 30 TAC §§330.65(a).
- B. Part No. 3, Attachment B, consisting of amendments, modifications, temporary authorizations, 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 permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act, and is grounds for an enforcement action, revocation, or suspension.
- D. A pre-construction conference shall be held pursuant to 30 TAC §330.73(c) prior to beginning any construction within the permit boundary to ensure that all aspects of this permit, construction activities, and inspections are met. Additional pre-construction conferences may be held prior to the opening of the facility.
- E. A pre-opening inspection shall be held pursuant to 30 TAC §330.73(e).
- F. The permittee shall monitor sediment accumulations in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain the design flow.
- G. The tracking of mud off-site onto any public right-of-way shall be minimized.
- H. In accordance with 30 TAC §330.19(a), the permittee shall record in the deed records of Brazos County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.19(b).

- I. Daily cover of the waste fill areas shall be performed at least once each week with clean soil that has not been in contact with waste or with an alternate daily cover which has been approved in accordance with 30 TAC §§330.165(d) and 305.70. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior daily cover or which contains waste.
- J. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. Erosion stability measures shall be maintained on top dome surfaces and external embankment side slopes during all phases of landfill operation, closure, and post-closure care in accordance with 30 TAC §330.305(d). The permittee shall maintain the on-site access road and speed bumps/mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- K. In complying with the requirements of 30 TAC §330.145, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 30 days after the permit has been issued.
- L. The permittee shall retain the right of entry onto the site until the end of the post-closure care period as required by 30 TAC §330.67(b).
- M. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the post-closure care period as required by §361.032 of the Texas Health and Safety Code.
- N. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- O. Regardless of the specific design contained in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the regulations, and local, state, and federal laws or ordinances.
- P. If differences arise between these permit provisions (including the incorporated Parts I through IV of Attachment A of this permit) and the rules under 30 TAC Chapter 330, the permit provisions shall hold precedence.
- Q. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116 and 30 TAC Chapter 330, Subchapter U.

- R. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the State of Texas TPDES requirements, as applicable.

VIII. Incorporated Regulatory Requirements

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

IX. Special Provision

Before waste may be accepted at the facility, monitoring wells MW-1, MW-2, MW-3 MW-4 and MW-6 will be constructed in accordance with §330.421 and piezometers PZ-1, PZ-3, PZ-8, PZ-10, PZ-15 and PZ-17 will be plugged and abandoned in accordance with 16 TAC §76.702.

PART NO. 2

Attachment A

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

PART NO. 3

Attachment B

Amendments, corrections, and modifications may be issued for MSW Permit No. 2376

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

Technical Summary
of the

Brazos Valley Disposal Facility
MSW Permit Application
No. 2376

Type IV
Municipal Solid Waste Facility
Brazos County, Texas

Applicant:
CCAA, LLC

Date Prepared: March 20, 2012

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

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

Name of Applicant: CCAA, LLC
P.O. Box 5449
Bryan, TX 77805

Name of Facility: Brazos Valley Disposal Facility

Contact Person: Charles Mancuso, President
CCAA, LLC
P.O. Box 5449
Bryan, TX 77805
(979) 260-0006

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

Type of Facility: 42.24-acre Type IV Municipal Solid Waste Landfill Facility

1. General

1.1 Purpose:

This permit application, submitted by the CCAA, LLC, is to construct and operate a new Type IV MSW landfill in Brazos County, Texas. The total permitted facility will include 42.24 acres of land of which approximately 31.88 acres will be used for waste disposal. The final elevation of the waste fill final cover material will be 399 feet above mean sea level (msl). The site will be authorized to accept the waste streams as listed below.

1.2 Wastes to be Accepted:

Solid waste to be disposed of will consist of brush, construction or demolition waste, rubbish, inert material as defined in §330.3(67), Class 3 non-hazardous industrial solid waste, and non-regulated asbestos-containing materials. Class 2 non-hazardous industrial solid waste may be accepted to the extent that they are consistent with Title 30 Texas Administrative Code Chapter 330 Section (§)330.5(a)(2). The proposed landfill will not be able to accept waste materials other than those mentioned above.

1.3 Waste Acceptance Rate:

Authorized wastes will be accepted at an anticipated initial rate of approximately 200 tons per day. The landfill unit has an estimated life of approximately 7.4 years.

2. Location and Size.

2.1 Location:

The Brazos Valley Disposal Facility is located in Brazos County, Texas approximately 1,300 feet northwest of the intersection of Stewarts Meadow and FM 60 (Raymond Stotzer Parkway) within the extraterritorial jurisdiction of College Station. Refer to the General Location Map, Attachment 1 to this Technical Summary.

2.2 Elevation and Coordinates of Facility Benchmark:

Latitude: N 30.57226067°
Longitude: W 96.40707784°
Elevation: 287.21 feet msl

2.3 Size:

The total area within the permit boundary under the proposed permit is approximately 42.24 acres.

3. Facility Design, Construction, and Operations.

3.1 Facilities Authorized:

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

3.1.1 A Type IV municipal solid waste landfill facility with a disposal footprint of approximately 31.88 acres. The landfill will be excavated to an elevation of 236 feet msl (approximately 52 feet below general grade), which is also the elevation of deepest excavation. Above-grade aerial fill will be to 399 feet msl at the top of final cover (approximately 111 feet above general grade). The proposed facility will contain a gatehouse, scales, perimeter drainage ditches, 6 groundwater monitoring wells, 10 gas monitoring probes, and compacted clay liner system.

3.1.2 Access roads, temporary and permanent drainage features, disposal trenches, all appurtenances, and other improvements shall be built, operated, and/or maintained in accordance with the conditions of the permit, Part I - IV of the permit amendment application, and commission regulations. The facility shall be managed in a manner to protect human health and the environment.

4. Land Use

4.1. The site is located in Brazos County within the extraterritorial jurisdiction of the city of College Station, Texas. The site is approximately 1,300 feet northwest of the intersection of Stewarts Meadow and FM 60 (Raymond Stotzer Parkway).

4.2. The majority of the property within the proposed permit boundary is currently utilized in sand mining operations.

- 4.3. The proposed facility is not subject to any known city zoning ordinances.
- 4.4. The land use within one mile of the proposed facility is 76% undeveloped, 12% residential, 6% industrial, and 5% institutional.
- 4.5. There are no hospitals, schools, recreational areas, or springs located within one mile of the facility. There are two churches located approximately 1,000 feet southeast of the facility and a third about 3,300 feet southwest of the facility. There is a cemetery about 3,300 feet southwest of the facility. There is a child day care center about 1,320 feet southeast of the facility.
- 4.6. Structures located within 500 feet of the permit boundary consist of two residences and buildings associated with a recycling facility located immediately to the southeast.

5. Transportation and Access

- 5.1 The primary access route to the site is from FM 60 (Raymond Stotzer Parkway) through the property located immediately to the southeast of the permit boundary.
- 5.2 Direct access to the site is from Old Jones Road off FM 60 (Raymond Stotzer Parkway). FM 60 is a four-lane asphalt road with shoulders and a center divider (also acting as a turn lane). The road has a weight restriction of 80,000 pounds. Based on information obtained from the Texas Department of Transportation (TxDOT) the 2009 daily traffic volume for FM60 in the vicinity of the proposed site is 9,700 vehicles per day traveling in both directions. The landfill facility is expected to contribute approximately 49 vehicles per day in the first year of operation to over 196 vehicles per day in the 7th year of operation. This information is contained in the application and indicates that this road can sufficiently handle the current and anticipated future traffic volumes associated with this facility.
- 5.3 The nearest public use airport is the Easterwood Airport, which is located about 10,290 feet southwest of the site. The FAA was contacted and did not object to the location of the landfill site. A copy of all FAA correspondence was forwarded to Easterwood Airport.

6. Surface Water Protection

- 6.1 Floodplain:
The Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) indicates that the fill area of the Brazos Valley Disposal Facility is located outside of the 100-year floodplain. The FIRM indicated that the floodplain was estimated, so the permittee provided a floodplain study. Figure 2 in Parts I/II, Appendix B-2 illustrates the findings of this study. The floodplain is about 120 feet from the permit boundary.
- 6.2 Storm Water:
Storm Water drains to perimeter ditches to a detention pond at the southern corner of the permit boundary. Storm water flows to the south to Brushy Creek.

6.3 Contaminated Water:

Stormwater which comes in contact with solid waste will be considered contaminated water. Contaminated storm water at the working face will be properly contained and managed. No contaminated water will be discharged from the site without proper authorization.

7. Groundwater Protection

7.1 Groundwater Protection:

To reduce the potential for impacts to groundwater at the site resulting from waste disposal operations, the final cover of fill areas will be covered with, from the top down, a 6-inch thick grassed erosion layer and an 18-inch thick clay infiltration layer. Fill areas will be lined with 12 inches of protective cover over three feet of compacted clay.

7.2 Monitoring Wells:

The groundwater monitoring system which will provide for early detection of potential releases from the facility will consist of 6 monitor wells. The groundwater monitoring network will be sampled, analyzed, and monitored in accordance with the procedures in the Groundwater Sampling and Analysis Plan (Part III, Attachment 5, Appendix A of the Permit Amendment Application), which is part of the facility permit.

8. Control of Methane

8.1 Clay Liners:

The design and construction of the below grade liners, described in Section 7.1 of this Technical Summary, inhibits migration of methane gas.

8.2 Monitoring:

Landfill gas migration will be monitored around the perimeter of the facility utilizing 10 permanent landfill gas monitoring probes (LGMP). Permanent LGMP of a single tube design will be installed sequentially as the development of the fill areas progress. TCEQ regulations require that gas monitoring be conducted quarterly to detect any possible migration of methane gas beyond the facility property boundary and in enclosed structures within the facility property boundary.

9. Site Development and Operation

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

10. Protection of Endangered Species

Based on a field survey and available records, the facility is not expected to affect threatened or endangered plant or animal species.

11. Protection of Wetlands

Based on a field investigation and a review of available records and aerial photographs, no wetlands are located within the permit boundary.

12. Financial Assurance

Authorization to operate this facility is contingent upon the maintenance of financial assurance in accordance with 30 TAC Chapters 330 and 37, Financial Assurance, and the provisions contained in the permit.

13. Attachments

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

Attachment	Description	Location in Permit Application
#1	General Location Map	Part I, Figure 1-1
#2	Site Location Map	Part I, Figure 1-2
#3	Land Use Map	Part I, Figure 3-1
#4	Final Contour Drawing	Part I, Figure 2-1-2

14. Additional Information

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

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

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

15. Public Participation Process

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

- 15.1 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.

- 15.3 Technical review of the application is completed, a final draft permit is prepared, and the application is declared technically complete. Information for the application, the draft permit, the notice, and summaries are sent to the Chief Clerk's office for processing.
- 15.4 The "Notice of Application" 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 comment(s) about the application or draft permit. The notice also allows the public to request a public meeting for the proposed facility.
- 15.5 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 then 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.
- 15.6 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.
- 15.7 A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant party(ies) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ Commissioners for consideration of issuance or denial of a permit.
- 15.8 After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 20 days after the party or the party's attorney of record is notified of the decision. The matter could be set on another agenda for consideration by the Commission, or allowed to expire by operation of law.
- 15.9 Applications for which no one requests a contested case hearing are considered uncontested matters after the 30-day comment period. The application is placed on the Executive Director's signature docket and a permit is issued. Any motion to overturn the Executive Director's decision must be filed no later than 23 days after the agency mails notice of the signed permit.

Attachment E

Executive Director's Response to Public Comment

TCEQ PERMIT APPLICATION NO. 2376

APPLICATION BY
CCAA, LLC
FOR PERMIT NO. 2376

§
§
§

BEFORE THE
TEXAS COMMISSION ON
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 CCAA, LLC (Applicant), for Municipal Solid Waste (MSW) Permit Number 2376 and on the Executive Directors 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 received timely comment letters from Ed Bounds, Robert Jones, Aaron and Patricia Price, Cassandra Thornton, and Brazos Valley Council of Governments (BVCOG) Manager of Solid Waste Planning Candilyn McLean.

The Office of the Chief Clerk received timely, oral comments from Brazos County Precinct #4 Commissioner Irma Cauley, John Bounds, Marilynn Egger, Wally Groff, Eddie Hare, Jim Jett, Robert Jones, and Cullin Mancuso at the public meeting held on July 19, 2012. The Office of the Chief Clerk received timely, written comments from Brazos County Precinct #4 Commissioner Irma Cauley, Bob Brick, John Bounds, Edward Rhodes, and Cassandra Thornton at the public meeting held on July 19, 2012.

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 Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.gov.

CHIEF CLERK'S OFFICE

2012 SEP 19 PM 4:02

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

I. Background

A. Description of Facility

The Brazos Valley Disposal Facility is proposed to be located on 42.24 acres of land of which approximately 31.88 acres will be used for waste disposal. The facility would be located in Brazos County, approximately 1,300 feet northwest of the intersection of Stewarts Meadow and FM 60 (Raymond Stotzer Parkway) within the extraterritorial jurisdiction of the City of College Station. The facility is a Type IV municipal solid waste disposal facility. The proposed permit would establish operating and waste acceptance hours from 7:00 am to 7:00 pm, Monday through Friday, and 7:00 am to 2:00 pm on Saturday. The facility would be closed on Sundays. The Applicant would be allowed to dispose of brush, construction or demolition waste, rubbish, inert material as defined in 30 TAC §330.3(67), Class 3 non-hazardous industrial solid waste, and non-regulated asbestos-containing materials. Class 2 non-hazardous industrial solid waste may be accepted to the extent that they comply with the limitations in 30 TAC §330.5(a)(2). The Applicant would not be authorized to accept hazardous waste, Class 1 non-hazardous industrial solid waste, regulated asbestos-containing materials, household waste, putrescible waste, liquid waste, special waste, or any other prohibited waste as listed in Part IV, Section 4.2.1 of the Application.

B. Procedural Background

The Application was submitted on June 3, 2011, and declared administratively complete on June 15, 2011. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit was published on July 8, 2011 in the *Bryan Eagle*, and in Spanish on July 8, 2011 in the *La Voz Hispana*. The ED completed the technical review of the Application on April 2, 2012, and prepared a draft permit. The Notice of Application and Preliminary Decision for Municipal Solid Waste Permit Application was published on May 11, 2012 in the *Bryan Eagle*, and in Spanish on May 11, 2012 in the *La Voz Hispana*. The Notice of Public Meeting was published on June 27, 2012; July 3,

2012; and July 10, 2012 in the *Bryan Eagle*. A public meeting was held on July 19, 2012 at the Brazos County Expo Complex, 5827 Leonard Road, Bryan, Texas. The comment period for this Application closed on July 19, 2012. 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.

II. Comments and Responses

Comments of general support for the proposed facility were provided by Marilyn Egger, Wally Groff, Eddie Hare, Jim Jett, Robert Jones, Cullin Mancuso, and Edward Rhodes. Robert Jones and Cassandra Thornton withdrew comments opposing the Application as will be noted in detail below.

Comment 1 (Human Health and the Environment):

Ed Bounds, John Bounds, and Irma Cauley expressed general concerns that the proposed facility would adversely affect human health and the environment.

Response 1:

The Executive Director reviewed the Application for compliance with MSW rules which were developed to protect human health and the environment. If the proposed landfill is constructed and operated as shown in the Application and as required by the rules, the Executive Director expects human health and the environment to be protected.

Comment 2 (Air Emissions and Asbestos):

Ed Bounds stated concerns over air emissions from the proposed facility, particularly from asbestos-containing materials.

Response 2:

The Executive Director has received no information that shows that the proposed facility presents a threat to human health or the environment due to air emissions. With specific consideration of asbestos-containing materials, please note that as a Type IV landfill, the facility would be prohibited from accepting regulated asbestos-containing materials (RACM). The facility would be allowed to accept non-RACM. While RACM is asbestos-containing material that is friable or has a high probability of becoming friable, 30 TAC §330.3(126), and therefore airborne, non-RACM is not. Non-RACM may only be accepted if the waste is managed in a manner that will not cause the material to be crumbled into a friable state. *See* 30 TAC §330.171(c)(4). The Applicant has agreed to this condition in Part IV, Section 4.24 of the Application.

Comment 3 (Height and Proximity to Airport):

John Bounds, Irma Cauley, and Aaron and Patricia Price stated that the height of the proposed landfill is excessive and could pose a danger to Easterwood Field Airport. Bob Brick suggested that the fill material be used to fill in the current pit to pre-existing natural grades and then the property be used for some purpose other than above-grade waste. Edward Rhodes, supporting the Application, commented that Kyle Field, the Oceanography Building, and numerous construction cranes are all as close or closer to the airport than the proposed landfill and that these structures pose no threat.

Response 3:

Neither the Texas Solid Waste Disposal Act (TSWDA) nor the TCEQ's rules provide a specific limit on the height of a landfill. Height is limited indirectly by the geometry of the waste footprint and allowable side slopes of the landfill unit. If the proposed landfill is constructed and operated as shown in the Application and as required by regulation, including providing proper compaction of waste and cover and meeting allowable sideslopes, the Executive Director expects current technology to be more than adequate to operate the facility at the proposed height. Above-grade waste disposal is typical for landfills in Texas and is allowed under Chapter 330. Some above-

grade development is needed at most landfills to ensure proper drainage and to prevent water from ponding over waste.

The Federal Aviation Administration (FAA) was contacted regarding the proposed facility in accordance with 30 TAC §330.61(i)(5). The FAA responded that they had no objection to the proposed facility. This correspondence is provided in Parts I/II, Appendix A-3 of the Application. The information submitted does not support a finding that the landfill would pose a hazard to aircraft.

Comment 4 (Property Values):

Ed Bounds, John Bounds, and Cassandra Thornton commented that the proposed facility would adversely affect property values. Ms. Thornton subsequently withdrew her comment.

Response 4:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. *See* Tex. Health and Safety Code § 361.011. Accordingly, the TCEQ does not have jurisdiction to consider potential effects on property values when determining whether to approve or deny an application for an MSW permit. However, the issuance of a permit does not authorize injury to persons or property or invasion of other property rights, or infringement of state or local law or regulation. *See* 30 TAC § 305.122(c). The Executive Director's review of a permit application is limited to whether the application and proposed facility design and operation meet the requirements of the applicable TCEQ rules.

Comment 5 (Traffic):

Irma Cauley indicated that the roads to be used by the facility are not adequate for the traffic expected at the proposed facility. Robert Jones commented that the proposed facility should be prohibited from using Lacy Well Road, which runs adjacent to the facility. Mr. Jones subsequently withdrew his comment. Edward Rhodes,

supporting the application, stated that the only waste to be disposed at the proposed landfill would be from the adjacent recycling facility and that the landfill would actually reduce traffic, as these materials that could not be recycled would be taken to the landfill next to the recycling facility rather than to some other authorized facility that would not be adjacent to the recycling facility.

Response 5:

In Parts I/II, Section 3.2 and Parts I/II, Appendix A-4, 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.

The Executive Director agrees with the observations provided by Mr. Rhodes that the traffic information provided in the Application is essentially associated with the existing recycling facility located next door to the proposed landfill. The Applicant presented traffic data related to the facility to the Texas Department of Transportation (TxDOT). This coordination with TxDOT is required by 30 TAC §§ 330.23(a) and 330.61(i)(4). TxDOT responded that they did not foresee issues with facility traffic. This correspondence is provided in Parts I/II, Appendix A-4 of the Application. The information provided supports a finding that existing roads are adequate to accommodate traffic from the facility.

Comment 6 (Surface Water):

John Bounds and Irma Cauley shared concerns about the possible detrimental effect that the proposed facility could have on surface water.

Response 6:

In accordance with 30 TAC § 330.15(h), a facility may not discharge solid waste or pollutants that are in violation of Texas Water Code, § 26.121 into or adjacent to waters in the state. Rules 30 TAC §§ 330.305(g) and 330.207 require that contaminated water, including leachate, condensate and water that has contacted waste, be collected, contained, properly managed and disposed in a manner that does not cause surface or groundwater pollution. Off-site discharge of contaminated water from an MSW landfill facility is prohibited without prior authorization in accordance with 30 TAC §330.207(e). These requirements are addressed in Part III, Attachment 3, Section 6.0 of the Application.

TCEQ rules regulating surface water drainage at MSW landfills are found in 30 TAC Chapter 330, Subchapter G. The Application addresses erosion control in a drainage report provided in Part III, Attachment 2, Section 4.0. The drainage report describes proposed drainage features, including drainage channels, perimeter channels, letdown structures, containment berms, and detention ponds designed to control drainage within the facility. The Executive Director has reviewed the Application and determined that the submissions regarding facility design and operation satisfy the rule requirements regarding surface water quality protection.

Surface water issues related to the floodplain will be discussed in greater detail below.

Comment 7 (Groundwater):

John Bounds shared his concern that the proposed facility could have a detrimental effect on groundwater.

Response 7:

The landfill will be constructed with a three-foot-thick clay layer overlain by one foot of protective cover soil in accordance with 30 TAC §330.331(d) to protect groundwater. In addition to the liner, the landfill is designed to include a groundwater

monitoring system around the landfill to detect groundwater contamination from the landfill. Background groundwater sampling for the new wells will be conducted quarterly (3-month intervals) for one year for a total of four independent sampling events. After background sampling is completed, the detection monitoring program will consist of groundwater sampling on an annual basis. If the landfill were to contaminate groundwater, the Applicant would be required to take the appropriate corrective action. The proposed liner and groundwater monitoring system comply with the applicable requirements in 30 TAC Chapter 330.

Comment 8 (Land Use Compatibility):

John Bounds and Bob Brick stated concerns that the proposed facility would adversely affect community development. Irma Cauley and Bob Brick noted the proximity of the proposed facility to an area in College Station being developed as a “Biomedical Corridor.” Irma Cauley and Cassandra Thornton expressed concern that the proposed facility is not compatible with land uses in the surrounding area and that it should be located elsewhere. Ms. Thornton subsequently withdrew her comment.

Response 8:

The TCEQ does not have authority to require relocation of a proposed or existing municipal solid waste facility, but must assess any application against applicable rules. The TCEQ may deny an application based on a landfill posing an incompatible land use. See Tex. Health and Safety Code §§ 361.069 and 361.089(a). Rule 30 TAC §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 was required to 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 Applicant provided the required information in Parts I/II, Section 3.1. The information provided does not support a finding of incompatible land use to justify denying the Application.

Comment 9 (Regional Solid Waste Plan):

Candilyn McLean on behalf of the BVCOG indicated that the Application is not consistent with BVCOG's Regional Solid Waste Management Plan (RSWMP) because the proposed facility would be incompatible with the RSWMP's goals of "maintaining appropriate buffers and setbacks from sensitive land uses" and "minimizing the negative visual impacts."

Response 9:

The TCEQ is required to consider whether a landfill is compatible with an approved local and regional solid waste management plan. *See* Tex. Health and Safety Code §§361.062 and 363.066. The Applicant submitted documentation of coordination with BVCOG as required by 30 TAC §330.61(p). BVCOG submitted a letter dated January 20, 2012, which concluded that the Application is in non-conformance with BVCOG's RSWMP.

In this case, BVCOG has an approved RSWMP which includes, under Goal #2 to ensure the availability of proper and safe management of solid waste in the BVCOG region: Objective #2B to encourage the maintenance of appropriate buffers and setbacks from sensitive land uses for new MSW facilities; and, Objective #2C to encourage minimizing the negative visual impacts for new MSW facilities." The RSWMP does not define these areas that should be provided with buffers or define an appropriate distance for these buffers. Nor does it define negative visual impacts or how they should be avoided. BVCOG's determination of non-conformance is based on Objectives 2B and 2C.

Without specific criteria in the RSWMP, the Executive Director reverts to the requirements of 30 TAC Chapter 330 to evaluate these issues. In accordance with 30 TAC §330.543(b)(1), Type IV landfills must maintain a minimum separating distance of 50 feet between waste storage, processing, or disposal and the permit boundary. The Application demonstrates compliance with this requirement in Part IV, Section 4.9.2 and on site layout figures in the Application, such as Parts I/II, Figure 2-1-1. With regard to negative visual impacts, the Executive Director is authorized by 30 TAC §330.175 to require visual screening of deposited waste materials where necessary. The Executive Director has not been provided with information to justify requiring additional screening for this facility.

In addition to disagreeing with BVCOG's determination on these two specific objectives, the Executive Director determined that the Application is compatible with the RSWMP's Goal 2 to ensure the availability of proper and safe management of solid waste in the BVCOG Region. The information provided does not support a finding that the landfill would be incompatible with BVCOG's approved plan.

Comment 10 (Operating Hours):

Robert Jones commented that the proposed facility operating hours should be reduced from 24 hours per day, seven days per week to 7:00 am to 7:00 pm, Monday through Friday, and "half day (daytime) operations on one weekend day." Mr. Jones subsequently withdrew his comment.

Response 10:

The comment reflects operating hours proposed in the original Application submittal. During the review process the Applicant reduced its proposed operating (and waste acceptance) hours to 7:00 am to 7:00 pm, Monday through Friday, and 7:00 am to 2:00 pm Saturday. The facility would not be authorized to operate on Sundays. The information provided does not warrant any further restrictions on operating hours.

Comment 11 (Waste Processing):

Robert Jones expressed concern that processing of waste, such as screening, grinding and crushing, would cause loud noises and create dust. He requested that processing of waste be prohibited in the permit. Mr. Jones subsequently withdrew his comment.

Response 11:

The Application, which is part of the Draft Permit by reference, provides in Part III, Section 2.2 that waste processing will not occur within the proposed permit boundary.

Comment 12 (Class 2 and Class 3 Industrial Waste):

Robert Jones indicated his concern that some Class 2 and Class 3 waste would produce odors and requested that they be prohibited at the proposed facility. Mr. Jones subsequently withdrew his comment.

Response 12:

Rules 30 TAC §330.173(i) and (j) authorize Type IV landfills to accept Class 2 and Class 3 industrial waste. Class 3 industrial waste is essentially insoluble. As noted in 30 TAC §330.173(i), these facilities are only authorized to accept Class 2 industrial waste to the extent that it meets the restrictions for Type IV landfills under 30 TAC §330.5(a)(2), meaning that while it may come from an industrial source, it still must be brush, construction or demolition waste, or rubbish. Rubbish is defined under 30 TAC §330.3(130) to be nonputrescible solid waste.

As required under 30 TAC §330.149, an Odor Management Plan is provided in Part IV, Section 4.13 of the Application. The plan indicates that without putrescible waste or liquid waste, and with no composting operations, odor is not expected to be a significant issue. Pondered water, the only identified condition that could lead to odors at this facility, will be controlled as discussed in Part IV, Section 4.22 of the Application.

Should odors be identified, site personnel will respond by increasing weekly cover, reducing the size of the working face, or operating a misting system, as itemized in Part IV, Section 4.13.3.2. of the Application. The Executive Director does not anticipate odor issues related the types of waste that would be authorized at this facility.

Comment 13 (Combustible Waste):

Robert Jones noted that Part IV, Section 4.3.2.1 of the Application discusses how the facility will address loads of waste that are discovered to be on fire or smoldering. Mr. Jones inquired as to what wastes might catch on fire. Mr. Jones subsequently withdrew his comment.

Response 13:

Part IV, Section 4.3.2.1 of the Application is part of the Fire Protection Plan that is required of all MSW landfills. To address this requirement the Application is expected to include plans to address fires at the active face and on incoming loads. Type IV landfills are authorized to accept brush, wood, paper, and other potentially combustible materials. Should they be exposed to excessive heat or errant ignition sources, such as a lit cigarette butt in a construction rolloff box, combustion could occur. For these reasons Chapter 330 requires this information. The Fire Protection Plan submitted complies with 30 TAC §330.129 and includes adequate provisions for fire protection.

Comment 14 (Windblown Waste):

Robert Jones noted that Part IV, Section 4.8 of the Application discusses windblown waste. Mr. Jones inquired as to what wastes might blow away. Mr. Jones subsequently withdrew his comment.

Response 14:

Type IV landfills are authorized to accept rubbish, which includes paper, plastic, and other materials that may be light enough to become windblown. In accordance with

30 TAC §330.139, these materials must be controlled at the active face and where they have escaped these controls must be picked up at least once a day when the facility is operating. The Application addresses these requirements in Part IV, Section 4.8. The Application complies with the rules and is expected to provide adequate control of windblown waste.

Comment 15 (Floodplain):

Irma Cauley expressed concern that a portion of the property is located within the 100-year floodplain.

Response 15:

The Applicant provided a Federal Emergency Management Agency (FEMA) map in Parts I/II, Appendix B-2. This map was the most current when the Application was submitted. This map indicates that the floodplain does not extend into the permit boundary; however, the Executive Director noted that the illustrated floodplain is Zone A, indicating that the base flood elevations were not determined, but estimated. This estimated floodplain is illustrated about 75 feet east of the permit boundary.

The Executive Director was concerned that a small difference in the actual floodplain from the estimated floodplain could put the facility in the floodplain. The Applicant was asked to perform modeling to determine the actual floodplain in the vicinity of the proposed facility. This analysis is detailed in Part III, Appendix E of the Application. The calculated floodplain is provided as Figure 2 in Parts I/II, Appendix B-2 of the Application. The FEMA map and the Applicant's analysis adequately demonstrate that the landfill will not be located in the floodplain.

Comment 16 (Noise):

John Bounds shared concerns that the facility would create noise.

Response 16:

The TCEQ's rules do not include any specific limits on noise caused by a landfill. The reduced operating hours discussed in **Response 10** above is expected to reduce noise at night and on weekends.

Comment 17 (Dust):

John Bounds shared concerns that the facility would create dust.

Response 17:

Rule 30 TAC § 330.153(b) prohibits dust from on-site and off-site roadways that provide access to an MSW landfill from causing a nuisance to surrounding areas. It also requires a water source and necessary equipment, or other means of dust control approved by the Executive Director. Part IV, Section 4.15 of the Application indicates that all on-site access roads will be sprayed with water from a site water truck to control dust as needed, and if needed, commercial dust-control fluids may be used. The Executive Director has determined that the information submitted in the Application complies with the rules and will provide adequate dust control.

Comment 18 (Inadequate Notice):

John Bounds indicated that a second meeting should be held because many of his neighbors were not notified and should have the right to express their opinions.

Response 18:

Notice is required for MSW permit applications in accordance with 30 TAC Chapter 39, Subchapters H and I. These rules specify that notices of the receipt of an application and of a preliminary decision are made to, among others listed in 30 TAC §39.413, landowners named on the application map. Rule 30 TAC §330.59(c)(3)(A) limits this map to include land ownership within one quarter-mile of the proposed facility. While the Executive Director agrees that persons owning property beyond one

quarter-mile have the right to participate, mailed notice was provided as required by the rules. The Executive Director received a request from Mr. John Millhollon on August 21, 2012, requesting that TCEQ staff attend a community meeting on August 28, 2012. TCEQ permitting staff attended the community meeting, answered questions, confirmed that the formal comment period had closed on July 19, 2012, and provided information on how to participate in the ongoing permitting process. The Executive Director does not plan to schedule another public meeting for this Application.

Changes Made to the Draft Permit in Response to Comments

No changes were made to the Draft Permit to address these comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Zak Covar
Executive Director

Robert Martinez, Director
Environmental Law Division



Steve Shepherd, Staff Attorney
Environmental Law Division
State Bar No. 18224200
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-0464
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Certificate of Service

I certify that on September 19, 2012 the Executive Directors Response to Public Comments for Permit Application No. 2376 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Steve Shepherd, Staff Attorney
Environmental Law Division
State Bar No. 18224200
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-0464
Fax: (512) 239-0606

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2012 SEP 19 PM 4:03

CHIEF CLERKS OFFICE