

**TCEQ DOCKET NO. 2013-1506-MSW**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>RANCHO VIEJO WASTE</b>	<b>§</b>	
<b>MANAGEMENT, LLC</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>FOR</b>	<b>§</b>	
<b>MSW PERMIT NO. 2374</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

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**Executive Director's Response to Hearing Request**

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**I. Introduction**

The Executive Director of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Request (Response) on the application of Rancho Viejo Waste Management, LLC (Rancho Viejo or the Applicant) for a new Municipal Solid Waste (MSW) Permit No. 2374. The Office of the Chief Clerk (OCC) received hearing requests from ANB Cattle Company, Lilia G. Cavazos-Keller, Rosemary Jordan Contreras, Anna Jordan Dodier, James Robert Jordan, Sharyn Peterson Jordan, Richard Jerome Jordan, John A. Meitzen, Hurd Ranch Company, Miguel A. Villarreal, Sr., James R. Volz, Mary L. Wied, Robert F. Wied, and Robert F. Wied, Jr.

Attached for Commission consideration are the following:

- Attachment A – GIS Map
- Attachment B – Land Ownership Map and Land Ownership 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**

Rancho Viejo has applied to the TCEQ for an MSW permit to construct and operate the Pescadito Environmental Resource Center, which would include a new Type I MSW landfill, a Type V Grease and Grit Trap waste processing facility, and a recycling facility. The facility is proposed to be located approximately five miles southeast of U.S. Highway 59 at Ranchitos Las Lomas, Laredo, Webb County, Texas. The total permitted

area would include 1,110 acres of land, of which approximately 800 to 850 acres would be used for waste disposal. The final elevation of the landfill final cover material would be 935 feet above mean sea level. The site would be authorized to accept municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, and recreational activities. This would include garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, and yard waste. The facility would also be authorized to accept industrial waste, including Class 1 non-hazardous industrial solid waste, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, and special waste. Waste would be accepted at an anticipated initial rate of approximately 2,750 tons per day. The acceptance of Class 1 non-hazardous industrial solid waste would be limited to no more than 20% of the total amount of waste (not including Class 1 wastes) accepted during the current or previous year. The Type V Grease and Grit Trap waste processing facility will have a permitted maximum daily acceptance rate of 50,000 gallons.

### **III. Procedural Background**

Parts I and II of the Application were received by the TCEQ on April 15, 2011, and declared administratively complete on June 1, 2011. The Notice of Receipt of Application and Intent to Obtain a Permit was published in the *Laredo Morning Times* on June 29, 2011, and in Spanish in *El Mañana* on June 29, 2011. The Executive Director completed the technical review of the Application on July 2, 2012, and prepared a draft compatibility determination order. The Notice of Public Meeting was published in the *Laredo Morning Times* on February 9, 2013, February 14, 2013, and February 21, 2013. A public meeting was held on February 28, 2013, at Texas A & M International University Student Center, located at 5201 University Drive, Laredo, Texas 78041. The Notice of Application and Preliminary Decision was published in the *Laredo Morning Times* on March 30, 2013, and in Spanish in *El Mañana* on February 25, 2013. The comment period ended on April 29, 2013. The Executive Director's Response to Public Comment (RTC) was filed on June 28, 2013. The Executive Director's Final Decision Letter was mailed on July 3, 2013 and the period for filing a Request for

Reconsideration or Contested Case Hearing ended on August 2, 2013. 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, 76<sup>th</sup> Legislature, 1999.

#### **IV. The Evaluation Process for Hearing Requests**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The application was declared administratively complete on June 1, 2013; 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) Except as provided by 30 TAC § 55.103, government entities, including local governments and public agencies, with authority under state law over issues raised by the application,
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - 1) whether the interest claimed is one protected by the law under which the application will be considered;
  - 2) distance restrictions or other limitations imposed by law on the affected interest;
  - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - 5) likely impact of the regulated activity on the use of the impacted natural resource by the person; and

- 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 50.203.

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

- a) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- b) the interests the group or association seeks to protect are germane to the organization's purpose; and
- c) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

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

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

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

## **V. Analysis of the Requests**

## ***A. Analysis of the Hearing Requests***

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

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

#### a. ANB Cattle Company, Ltd.

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received four hearing requests from ANB Cattle Company, Ltd. on November 21, 2011, July 26, 2012, February 28, 2013, and July 30, 2013. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., property ownership, impact on flood plains, impact on wetlands, impact on groundwater, and adequacy of access roads).

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

#### b. Lilia G. Cavazos-Keller

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received a hearing request from Lilia Cavazos-Keller on July 30, 2012. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case

hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., impact on surface water and impact on traffic).

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

c. Rosemary Jordan Contreras

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received four hearing requests from Rosemary Jordan Contreras: three on July 20, 2011 and one on July 31, 2012. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., impact on wildlife, impact on traffic, and waste acceptance).

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

d. Anna Jordan Dodier

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received Anna Jordan Dodier's hearing request on August 3, 2012. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., impact

on surface waters, impacts on wildlife, waste acceptance, impacts on traffic, and land use compatibility).

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

e. Hurd Ranch Company, Ltd. and Related Entities

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received three hearing requests from Hurd Ranch Company and related entities on August 2, 2013, April 29, 2013, and March 25, 2013. The hearing request provided: 1) the requestors' names, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., notice requirements, compliance with regional solid waste management plans, property ownership, and land use compatibility).

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

f. James Robert Jordan

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received four hearing requests from James Robert Jordan: two on August 24, 2011 and two on August 1, 2012. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public

comment period (i.e., impact on surface waters, impact on wildlife, impact on traffic, and waste acceptance).

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

g. Richard Jerome Jordan and Sharyn Peterson Jordan

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received three hearing requests from the Jordans: two from Sharyn Peterson Jordan on July 20, 2011 and one from Richard Jerome Jordan and Sharyn Peterson Jordan on July 25, 2012. The hearing request provided: 1) the requestors' names, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., pollution of surface water, impact on wildlife, and land use compatibility).

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

h. John A. Meitzen

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received four hearing requests from John Meitzen: on July 26, 2013, March 26, 2013, and two on August 3, 2013. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised

during the public comment period (i.e., adequacy of access roads, land use compatibility, and impact to surface waters).

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

i. Miguel A. Villarreal

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received a hearing request from Miguel Villarreal on July 25, 2011. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., impact on surface waters, impact on wildlife, land use compatibility, and waste acceptance).

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

j. James R. Volz

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received a hearing request from James R. Volz on July 18, 2011. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., land use compatibility, and impact on wildlife).

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

k. Mary L. Wied and Robert F. Wied

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received hearing requests from Mary L. Wied and Robert F. Wied on July 22, 2011. The hearing request provided: 1) the requestors' names, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., land use compatibility, and impact on wildlife).

*The Executive Director recommends that the Commission find that **Mary L. Wied's and Robert F. Wied's** hearing requests **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).*

l. Robert F. Wied, Jr.

The public comment period for this permit application ended on April 29, 2013. The period for timely filing a request for a contested case hearing on this permit application ended on August 2, 2013. The Office of the Chief Clerk received three hearing requests from Robert F. Wied, Jr. on August 19, 2011, September 1, 2011, and August 10, 2012. The hearing request provided: 1) the requestor's name, address, daytime phone number, 2) requested a contested case hearing, 3) identified a personal justiciable interest, and 4) listed relevant and material disputed issues of fact that were raised during the public comment period (i.e., land use compatibility, impact on traffic, notice to landowners, and impact on wildlife).

The Executive Director recommends that the Commission find that **Robert F. Wied, Jr.’s** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

## 2. Whether the Requestors are Affected Persons

### a. ANB Cattle Company, Ltd.

ANB Cattle Company effectively stated a personal, justiciable interest in the Application. The hearing request indicated that ANB Cattle Company owns an undivided one-half interest in certain mineral classified lands located within and adjacent to the facility boundary. ANB Cattle Company cited a *Stipulation Confirming Surface Ownership, Agreed Boundary Line and Roadway Access*, executed with the Applicant, and dated November 17, 1998. The stipulation indicates ANB Cattle Company’s undivided one-half interest in “all state mineral classified lands located within ... survey No. 2366, Abstract No. 3182, Survey No. 112, Abstract No. 2835.” According to Webb County Appraisal District data (Webb CAD), Surveys 2366 and 112 correspond to Webb CAD property ID numbers 473375, 473378, and 204806. The GIS Map, provided as **Attachment A**, indicates the location of these properties.<sup>1</sup> Tracts 473375 and 473378 are within the facility boundary itself, and Tract 204806 is directly adjacent to the facility boundary. The Webb County Appraisal District indicates that Rancho Viejo Waste Management, Ltd. is the owner of 473375 and 473378, and that Rancho Viejo Cattle Company is the owner of 204806. ANB Cattle Company also states that it is the beneficiary of the Benevides Family Mineral Trust (BFMT), which owns a mineral interest under the proposed facility. The mineral interest owned by BFMT is indicated in the Land Ownership Map, included as **Attachment B**.

The hearing request raised issues regarding the accuracy of the property owner information in the Application, impacts on wetlands and flood plains, and the adequacy

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<sup>1</sup> Nearly all hearing requesters in this matter described their property by identifying survey numbers from Webb County property records instead of by identifying property addresses. In order to illustrate these properties for the Commissioners, the Executive Director collaborated with the Webb County Appraisal District to identify the properties and overlay Webb CAD GIS data over the satellite image of the proposed facility. This is reflected in **Attachment A**. The Webb CAD data is publicly available, and may be searched at <http://www.webbcad.org/>.  
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of roads used by ANB Cattle Company and the Applicant. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

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

b. Lilia G. Cavazos-Keller

Lilia G. Cavazos-Keller effectively stated a personal, justiciable interest in the Application. Ms. Cavazos-Keller indicated that her family owns 575.83 acres of property near the facility, described as Survey No. 374, Abstract 2125, and Survey No. 1657, Abstract 1120. A search of Webb CAD indicates one property owned by Ms. Cavazos-Keller that corresponds to Abstract 2125, Survey 374 (property ID 202736). Webb County indicates that Ms. Cavazos-Keller is the owner of the property, which is indicated in **Attachment A**. The property is within one mile of the facility and is adjacent to property owned by the Applicant. The hearing request raised concerns over the proposed facility's impact on surrounding land uses, wildlife, and traffic. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

*The Executive Director recommends that the Commission find that **Lilia G. Cavazos-Keller is an affected person** under 30 TAC § 55.203.*

c. Rosemary Jordan Contreras

Rosemary Jordan Contreras effectively stated a personal, justiciable interest in the Application. Ms. Contreras indicated that she owns property that is in close proximity to the proposed facility, stating that her property is "right next door (across

the fence) to the proposed landfill.” In her hearing request, Ms. Contreras described her property as a 14.32 acre parcel, Abstract 2624-1642 F C Jordan, and a 50.133 acre parcel, Abstract 1296-1643 GC & SF. A search of Webb CAD for Ms. Contreras indicates that she owns two tracts of real property in the county. These parcels correspond to the descriptions given in the request, and the descriptions correspond to Webb CAD property IDs 203701 and 200911, respectively. The Executive Director was not able to locate property 203701; however, property 200911 is indicated in **Attachment A**. The property is just beyond one mile of the facility, and Webb CAD indicates that Ms. Contreras is the owner of both properties. The hearing request raised concerns over the proposed facility’s impact on surrounding land uses, wildlife, waste acceptance, and traffic. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

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

d. Anna Jordan Dodier

Anna Jordan Dodier did not effectively state a personal, justiciable interest in the Application. Ms. Dodier indicated that she owns property near the facility, and that the facility, if allowed, would be “a few yards” from her fence line. Ms. Dodier also indicates that her property shares a “common boundary about one mile south of the proposed ... facility ....” In her request, Ms. Dodier described her property as being a 64.454 acre tract, Abstract 1296-1643 GC & SF. A search of Webb CAD indicates that Ms. Dodier owns one parcel of real property in the county. The parcel from Webb CAD meets the description of the property given by Ms. Dodier and corresponds with property ID 200910, which is indicated in **Attachment A**. Contrary to the content of the request, the property does not appear to be within a “few yards” of the fence line, but rather is well beyond one mile of the proposed facility with at least one other property intervening. The hearing request raised concerns over the proposed facility’s impact on

surrounding land uses, wildlife, waste acceptance, and traffic. While these interests are protected by the law under which the Application is being considered, the extended distance between the proposed facility and Ms. Dodier's property decreases the likelihood that the proposed facility will impact her in a way that is not common to the general public.

*The Executive Director recommends that the Commission find that **Anna Jordan Dodier is not an affected person** under 30 TAC § 55.203.*

e. Hurd Ranch Company, Ltd. and Related Entities

Hurd Ranch Company, Ltd. and several related entities requested a hearing; however, only Hurd Enterprises effectively stated a personal, justiciable interest in the Application. The Executive Director received three hearing requests related to the Hurds. The first two were on behalf of Hurd Enterprises, Ltd. The second request was on behalf of Hurd Ranch Company, Ltd., Hurd Enterprise, Ltd., Killam & Hurd, and John R. Hurd Jr. and E. Eugene Garcia, individually and on behalf of Hurdco, Inc.

Hurd Enterprises effectively stated a personal, justiciable interest in the application. The request indicated that Hurd Enterprises owns mineral interests under the proposed facility. This is supported by the Applicant's Land Ownership List, included as **Attachment B**, which shows that Hurd Enterprises, Ltd. as a mineral owner.

Hurd Ranch Company, Ltd. did not effectively state a personal, justiciable interest in the Application. The request indicated that their property would be impacted by the facility due to the existence of several miles of railway and roads within their property that the Applicant proposes to use for access to their facility. Specifically, Hurd Ranch Company raised a concern related to the transport of waste across their property and the potential for accidents or train derailments. In addition, the request claims that surface water from the proposed facility tends to flow southward toward their property. Hurd Ranch Company asserted that these activities might interfere with ranching

activities and recreation on the property, as well as the health and safety of the permanent residents.

In the request, Hurd Ranch Company described their property as 16,500 acres less than two miles south and southwest of the proposed landfill. According to Webb CAD, Hurd Ranch Company owns 263 tracts of real property in Webb County, so the Executive Director attempted to locate the property that is closest to the proposed facility. The closest tract identified has property ID 203293 and is indicated on **Attachment A**. The map indicates that there is a significant distance between the property and the proposed facility, and that there are at least three intervening properties. The hearing request raised concerns related to land use compatibility, impacts on wildlife, floodplains, wetlands, and traffic. While these interests are protected by the law under which the Application is being considered, the extended distance between the proposed facility and Hurd Ranch Company property decreases the likelihood that the proposed facility will impact Hurd Ranch in a way that is not common to the general public.

Killam & Hurd did not effectively state a personal, justiciable interest in the Application. The request bases the affected status of Killam & Hurd on its ownership of a mineral interest under the facility, noting that the Application material supports this assertion. However, the Land Ownership List, included as **Attachment B**, does not include Killam & Hurd, but rather Killiam Oil Company, Ltd.

Hurdco, Inc. did not effectively state a personal, justiciable interest in the Application. The request merely indicates that Hurdco, Inc. is a general partner of both Hurd Enterprises, Ltd. and Hurd Ranch Company, Ltd. As stated above, the Executive Director does not consider Hurd Ranch Company, Ltd. to be affected by this proposed activity. Furthermore, status as a general partner of an affected entity does not create a personal, justiciable interest for the general partner in and of itself.

Finally, John R. Hurd, Jr. and E. Eugene Garcia did not effectively state a personal justiciable interest in the Application. Mr. Hurd and Ms. Garcia base their affected status on the fact that they are presidents of Hurdco, Inc. As stated above, the Executive Director does not consider Hurdco, Inc. to be an affected person.

Furthermore, status as president of a company does not convey a personal, justiciable interest to Mr. Hurd or Ms. Garcia as individuals.

*The Executive Director recommends that the Commission find that **Hurd Enterprises, Ltd. is an affected person** under 30 TAC § 55.203.*

*The Executive Director recommends that the Commission find that **Hurd Ranch Company, Ltd.; Killam & Hurd; Hurdco, Inc.; John R. Hurd, Jr.; and E. Eugene Garcia are not affected persons** under 30 TAC § 55.203.*

f. James Robert Jordan

The Executive Director does not have enough information to make a recommendation on the affected status of James Robert Jordan. Mr. Jordan indicated that he owns property near the facility. Specifically, he notes that he owns land “abutting to the land for proposed waste management facility by Rancho Viejo Waste Management, LLC.” In his request, Mr. Jordan described his property as being a 64.453-acre tract, Abstract 1296, Survey 1643 GC & SF. Webb CAD indicates a property meeting this description owned by Mr. Jordan with property ID 200914. While Webb CAD indicates a record of the property, the Executive Director was not able to identify the location of the property. The hearing request raised concerns related to the proposed facility’s impact on surrounding land uses, wildlife, waste acceptance, and traffic. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

*At this time the Executive Director is unable to recommend that the Commission find that **James Robert Jordan is an affected person** under 30 TAC § 55.203.*

g. Richard Jerome Jordan and Sharyn Peterson Jordan

Richard Jerome Jordan and Sharyn Peterson Jordan did not effectively state a personal, justiciable interest in the Application. The Jordans indicated an ownership interest in several properties near the facility. Specifically, they note that their family owns land “directly adjacent to the proposed landfill.” In their request, the Jordans described eight different parcels of land, which the Executive Director has attempted to summarize as follows:

- Tract I            95.9860 acres, Abstract 2624, Survey 1642 S Jordan
- Tract II           93.0953 acres, Abstract 2624, Survey 1642, S Jordan
- Tract B-1         37.96 acres, Abstract 1296, Survey 1643
- Tract B-1         51.365 acres, Abstract 2627, Survey 1644
- Tract B-2         2.1 acres, Survey 1643
- Tract B-2         87.225 acres, Survey 1644
- Tract B-3         89.325 acres, Abstract 2627, Survey 1644
- Tract B-4         89.9721 Abstract 1759, Survey 2258 and Abstract 2627, Survey 1644

After searching Webb CAD for properties owned by Richard Jerome Jordan and Sharyn Peterson Jordan, the Executive Director found most of the properties represented by the Jordans. Webb CAD indicates properties meeting these descriptions with property IDs as follows:

- Tract II           93.0953 acres, 203704 and 203705
- Tract B-1         37.96 acres, 200912
- Tract B-1         51.365 acres, 203720
- Tract B-2         2.1 acres, 200913
- Tract B-2         87.225 acres, 203721
- Tract B-3         89.325 acres, 203718
- Tract B-4         89.9721 acres, 201887 and 203719

The Executive Director was not able to find a property record that directly corresponded to the description of Tract I, and was not able to locate Tract II on the map. However, the Executive Director located all other properties listed by Webb CAD

that are owned by either Richard Jerome Jordan individually or jointly with Sharyn Jordan. The Executive Director was also able to rule out all other properties within, or very nearly within, one mile of the facility. The properties are indicated in **Attachment A**.

The properties identified are well beyond one mile of the proposed facility with numerous properties intervening. The hearing request raised concerns related to the proposed facility's impact on surrounding land uses, surface water, and wildlife. While these interests are protected by the law under which the Application is being considered, the extended distance between the proposed facility and the Jordans' property decreases the likelihood that the proposed facility will impact them in a way that is not common to the general public.

*The Executive Director recommends that the Commission find that **Richard Jerome Jordan and Sharyn Peterson Jordan are not affected persons** under 30 TAC § 55.203.*

h. John A. Meitzen

John A. Meitzen effectively stated a personal, justiciable interest in the Application. Mr. Meitzen indicated that he owns property in "close proximity" to the facility, which he describes as "within one mile of the proposed landfill site." In his request, Mr. Meitzen described his property as being 390.457 acres of land in the FC Jordan Survey, Abstract 2226P 1656, and Abstract 2625, Survey 260. Webb CAD indicates two properties essentially meeting this description owned by Mr. Meitzen with property IDs 203715 and 203709, respectively, which are indicated in **Attachment A**. Both properties are within one mile of the proposed facility boundary, and Webb CAD indicates that the properties are owned by Mr. Meitzen. The hearing request raised concerns over the proposed facility's impact on surrounding land uses, wildlife, waste acceptance, and traffic. These interests are protected by the law under which the

Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

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

i. Miguel A. Villarreal

Miguel A. Villarreal did not effectively state a personal, justiciable interest in the Application. Mr. Villarreal indicated that Villarreal Real Estate Company owns 334.0176 acres “adjacent” to the land for the proposed facility. However, he also states that the facility will face his front yard, if allowed. It is unclear whether Mr. Villarreal requests a hearing on his own behalf, or on the behalf of Villarreal Real Estate Company. The Executive Director searched Webb CAD for properties owned by Miguel A. Villarreal and Villarreal Real Estate. It appears that all real property owned personally by Miguel A. Villarreal is several miles away in Laredo. However, the Executive Director was able to locate three tracts owned by Villarreal Real Estate that generally correspond to the description given in the request. The tracts have property IDs 203703, 200915, and 203727, and are indicated in **Attachment B**. The properties owned by Villarreal Real Estate are well over a mile from the proposed facility and have at least two intervening properties. The hearing request raised concerns over the proposed facility’s impact on surrounding land uses, wildlife, waste acceptance, and traffic. While these interests are protected by the law under which the Application is being considered, the extended distance between the proposed facility and the property owned by Villarreal Real Estate and decreases the likelihood that the proposed facility will impact users of that property in a way that is not common to the general public.

*The Executive Director recommends that the Commission find that **Miguel A. Villarreal and Villarreal Real Estate Company are not an affected person** under 30 TAC § 55.203.*

j. James R. Volz

James R. Volz effectively stated a personal, justiciable interest in the Application. Mr. Volz indicated that he owns 762 acres of land “adjoining” the land for the proposed facility. The Executive Director searched Webb CAD for properties owned by James R. Volz, but could not find a property that matched this description. However, the Applicant’s Land Ownership List, included as **Attachment B**, indicates that James Richard Volz has an ownership interest in Parcel 3, which is within ¼ of the facility. According to a Webb CAD search, Parcel 3 on the Landownership Map and List is owned by JEV Family, Ltd., which shares the home address of James R. Volz (1510 Houston St., Laredo, TX). This property is indicated in **Attachment A**. The hearing request raised concerns over the proposed facility’s impact on surrounding land uses and wildlife. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

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

k. Mary L. Wied and Robert F. Wied

Mary L. Wied and Robert F. Wied effectively stated a personal, justiciable interest in the Application. The Wieds indicated that they own 520 acres of land “adjoining” the property owned by the Applicant. The Executive Director searched Webb CAD for properties owned by Mary L. Wied and Robert F. Wied and identified six property IDs owned together by Mary L. Wied and Robert F. Wied (200909, 201886, 203700, 203708, 203717, and 203707) and one property owned by Mary L. Wied individually (203711). The Executive Director was able to identify most of these properties in the map included as **Attachment A**. Together these properties combine for approximately 515 acres, and correspond to the properties identified by Robert F. Wied, Jr., below. At

least one of these properties, 203711, is within one mile of the proposed facility boundary. The hearing request raised concerns over the proposed facility's impact on surrounding land uses and wildlife. These interests are protected by the law under which the Application is being considered, and there is a reasonable relationship between the interests claimed and the activity regulated.

*The Executive Director recommends that the Commission find that **Mary L. Wied and Robert F. Wied are affected persons** under 30 TAC § 55.203.*

1. Robert F. Wied, Jr.

Robert F. Wied, Jr. did not effectively state a personal, justiciable interest in the Application. Mr. Wied indicated that his family owns several properties "adjacent to the Yugo Ranch very near the proposed Rancho Viejo Waste Management Facility proposed in Webb County, Texas." The request described five properties in detail, as follows:

254.8 acres, Abstract 2625, Survey 260, TC Jordan

123.47 acres, Abstract 1296, Survey 1643 GC & SF

7.06 acres, Abstract 1759, Survey 2258 FC Jordan

10.32 acres, Abstract 2624, Survey 1642, FC Jordan

115.7 acres, Abstract 2625, Survey 260, FC Jordan

The Executive Director searched Webb CAD for properties owned by the Wied family and was able to identify the properties above as those with IDs 203711, 200909, 201886, 203700, and 203708, respectively. Each of these properties is owned by Robert F. Wied and Mary L. Wied together, or Mary L. Wied individually, as indicated above. Robert F. Wied and Mary L. Wied appear to reside in Metairie, Louisiana, while Robert F. Wied, Jr. appears to reside in Canadaigua, NY. Mr. Wied appears to base his hearing request on a personal justiciable interest established by a property interest held by other members of his family. Mr. Wied has not demonstrated that his separate, personal

interests are affected by the proposed facility, or that he has a legal interest in his family's property.

However, the hearing request raised concerns over the proposed facility's impact on surrounding land uses and traffic. These interests are protected by the law under which the Application is being considered.

*The Executive Director recommends that the Commission find that **Robert F. Wied, Jr. is not an affected person** under 30 TAC § 55.203.*

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

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

#### **1. Whether the proposed facility will interfere with mineral rights at the site.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 43. The Commission has determined that issues involving the protection of mineral rights issues or access to minerals are not matters that the Commission will consider during the MSW Permitting process. See preamble to adoption of Chapter 330 rules, 31 Tex. Reg. 2555 (March 24, 2006)

*The Executive Director concludes that this issue **is not appropriate** for referral to SOAH.*

**2. Whether Notice was adequately provided as required by TCEQ rule.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 45. 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 correctly identifies elected officials.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 47. It involves a question of fact and it is relevant and material to the decision on this application.

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

**4. Whether the Application correctly identifies owners of the property where the facility is proposed to be located.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 44. 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 proposed facility is compatible with surrounding land uses.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 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.*

**6. Whether the Application adequately addresses sites of potential historic significance.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 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.*

**7. Whether the Application adequately addresses endangered and threatened species.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 21. 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.*

**8. Whether the Applicant provides adequate evidence of competency.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 37. 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.*

**9. Whether the Applicant's waste acceptance plan is adequate.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 34. 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.*

**10. Whether the maps and aerial photographs provided with the Application are accurate and adequate.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 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.*

**11. Whether the Application adequately addresses information relevant to geology and soils at the proposed site.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 28. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**12. Whether the Application adequately addresses unstable areas in the region.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 28. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**13. Whether the Application adequately addresses water wells in the area.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 10. 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.*

**14. Whether the Applicant has consulted with the Air Permits Division.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 17. It involves a question of fact that is outside the scope of this application and is therefore not relevant and material to the decision on this application.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**15. Whether the Application adequately addresses flood plain issues which may result in contamination of adjacent lands.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 25. 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.*

**16. Whether the Application adequately addresses the effects of the proposed landfill on wetlands.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 26. 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.*

**17. Whether the Application adequately address threats to ground water and the local aquifer.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 27. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**18. Whether the Applicant has title to the land where the landfill is proposed.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 44. 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.*

**19. Whether the Application adequately address traffic impacts and adequacy of roads.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 2. 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.*

**20. Whether the proposed facility will interfere with easements in the immediate area.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 3. 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.*

**21. Whether the proposed facility will interfere with property values in the area.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 11. The issue of property values is outside the TCEQ's jurisdiction. It involves a question of fact that is not relevant and material to the decision on this application.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**22. Whether the proposed facility will interfere with the use and enjoyment of surrounding land uses.**

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

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

**23. Whether the Application adequately addresses impacts to wildlife and domestic animals in the immediate area.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 22. It involves a question of fact that is outside the jurisdiction of the TCEQ.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**24. Whether the Application adequately addresses odor concerns.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 27. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**25. Whether the Application adequately addresses vector control.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 20. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**26. Whether the proposed facility will accept foreign waste.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 33. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not appropriate for referral to SOAH.*

**27. Whether the Application adequately addresses visual impacts.**

This issue was raised and addressed in the Executive Director's Response to Public Comment, see Comment 12. It involves a question of fact but it is not relevant and material to the decision on whether this application is compatible with surrounding land use.

*The Executive Director concludes that this issue is not 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. Executive Director's Recommendation**

The Executive Director recommends the following actions by the Commission:

- a) Find that the following groups or individuals **are affected** and grant their hearing requests:
1. ANB Cattle Company, Ltd.
  2. Lilia G. Cavazos-Keller
  3. Rosemary Jordan Contreras
  4. Hurd Enterprises, Ltd.
  5. John A. Meitzen
  6. James R. Volz

7. Mary L. Wied and Robert F. Wied
- b) Find that the following groups or individuals ***are not affected*** and deny the hearing requests unless the parties provide additional information:
1. Anna Jordan Dodier
  2. Hurd Ranch Company, Ltd.
  3. Killam & Hurd
  4. Hurdco, Inc.
  5. John R. Hurd, Jr.
  6. E. Eugene Hurd
  7. Richard Jerome Jordan and Sharyn Peterson Jordan
  8. Miguel A. Villarreal
  9. Robert F. Wied, Jr.
- c) Should the Commission find that any of the requestors are affected persons, the following issues should be referred to SOAH for a Contested Case Hearing for a duration of nine months:
1. Whether Notice was adequately provided as required by TCEQ rule.
  2. Whether the Application correctly identifies elected officials.
  3. Whether the Application correctly identifies owners of the property where the facility is proposed to be located.
  4. Whether the proposed facility is compatible with surrounding land uses.
  5. Whether the Application adequately addresses sites of potential historic significance.
  6. Whether the Application adequately addresses endangered and threatened species.
  7. Whether the Applicant provides adequate evidence of competency.
  8. Whether the Applicant's waste acceptance plan is adequate.
  9. Whether the maps and aerial photographs provided with the Application are accurate and adequate.
  10. Whether the Application adequately addresses water wells in the area.

11. Whether the Application adequately addresses flood plain issues which may result in contamination of adjacent lands.
12. Whether the Application adequately addresses the effects of the proposed landfill on wetlands.
13. Whether the Applicant has title to the land where the landfill is proposed.
14. Whether the Application adequately address traffic impacts and adequacy of roads.
15. Whether the proposed facility will interfere with easements in the immediate area.
16. Whether the proposed facility will interfere with the use and enjoyment of surrounding land uses.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division



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REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY

## CERTIFICATE OF SERVICE

I certify that on September 16, 2013, the original and seven copies of the "Executive Director's Response to Hearing Request" for Rancho Viejo Waste Management, LLC, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



---

Daniel Ingersoll, Staff Attorney  
Environmental Law Division

MAILING LIST  
Rancho Viejo Waste Management, LLC  
Docket No. 2013-1506-MSW; Permit No. 2374

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Rancho Viejo Waste Management, LLC  
Docket No. 2013-1506-MSW; Permit No. 2374

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Metairie, LA 70003-2628

Robert F. Wied  
4913 Elmwood Parkway  
Metairie, LA 70003-2623

Mr. Robert F. Wied, Jr  
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Canadaigua, NY 14424-9112

# ATTACHMENT A

## GIS Map

Rancho Viejo Waste Management , LLC  
TCEQ Docket No. 2013-1506-MSW  
Permit No. 2374

**Rancho Viejo Waste Management, LLC**  
**Proposed MSW Permit No. 2374**  
**Map Requested by TCEQ Office of Legal Services**  
**for Commissioners' Agenda**

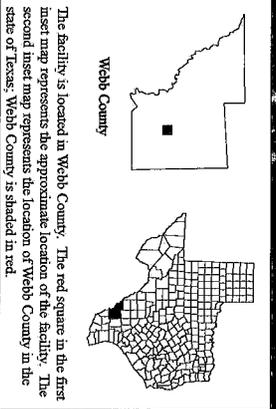


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**ID Properties**

1. Rancho Viejo Waste Management, Ltd.
2. Lilia G. Cavazos-Keller
3. Rosemary Jordan Contreras (1 of 2 tracts)
4. Anna Jordan Dooder
5. James Robert Jordan (not located)
6. Richard and Sharyn Jordan
7. John A. Meitzen
8. Villarreal Real Estate, Co.
9. Wied Family
10. Rancho Viejo Cattle, Co.
11. JEV Family, Ltd.
12. Hurd Ranch, Co.

Note: ANB Cattle Company asserts a 1/2 undivided interest on properties with IDs 473375, 473378 and 204806.



Texas Commission on Environmental Quality  
 GIS Team (Mail Code 197)  
 P.O. Box 13087  
 Austin, Texas 78711-5087

September 16, 2013

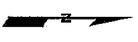


Projection: Texas Centric Mapping System  
 Albers (TCMS-A) meters  
 Scale: 1:54,484

**Legend**

- Applicant Property Boundary
- Tract Boundaries

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 background imagery of this map is from the current Microsoft Bing map service, as of the date of this map.



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P E Bushlow CR7-10-9-10

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-4880.

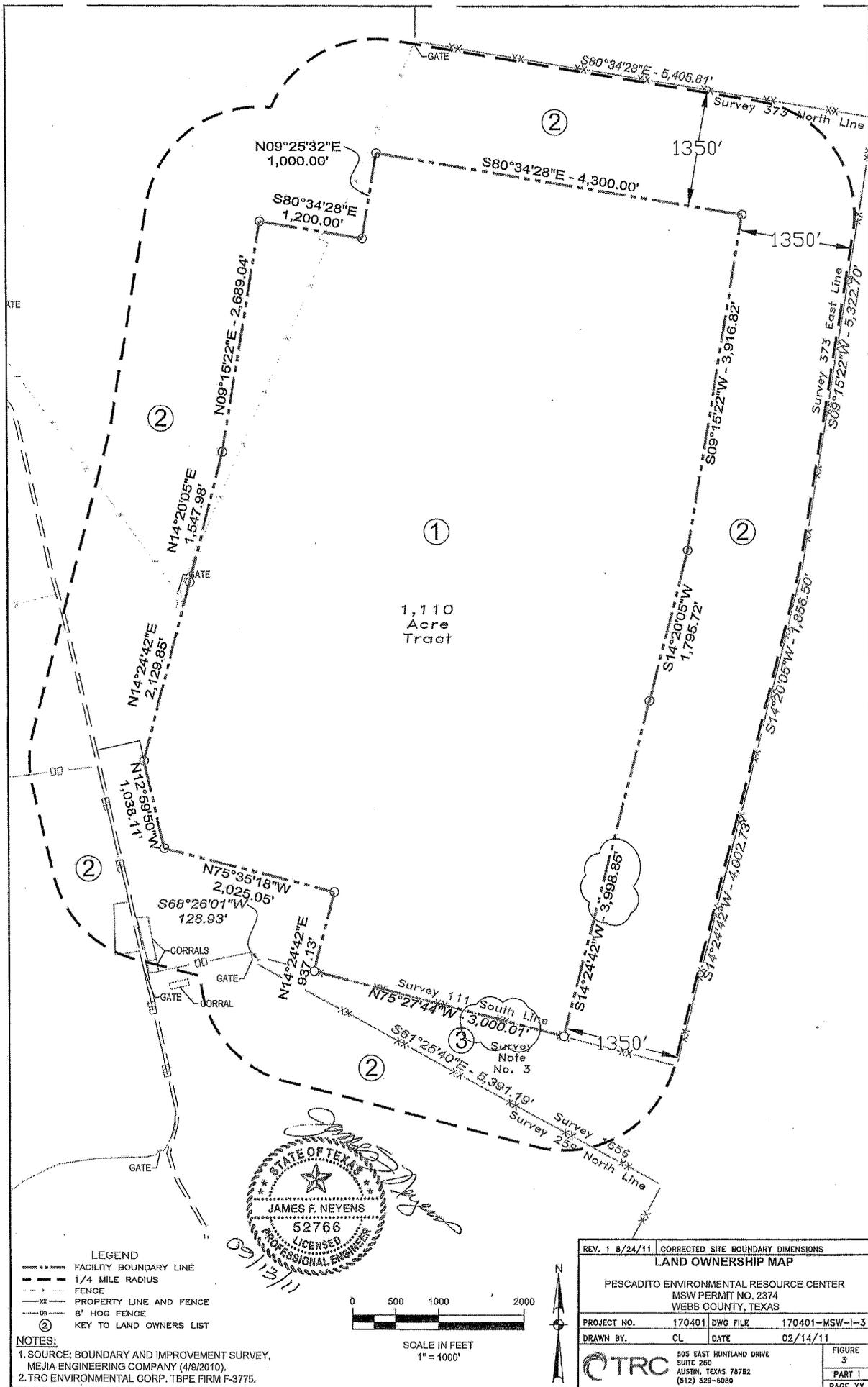
# ATTACHMENT B

Land Ownership Map and Landownership List

Rancho Viejo Waste Management , LLC

TCEQ Docket No. 2013-1506-MSW

Permit No. 2374



### 3.0 MAPS [330.59 (c)]

The maps presented as figures in Parts I and II show the elements required by §305.45, as discussed in Section 1.2 above. The General and Detailed Location Maps, the Land Ownership Map, and the Metes and Bounds drawing are presented in Figures 1, 2, 3, and 4 of Part I, respectively. The landowners' list corresponding to Figure 3 is presented below.

Following is a list of all owners of record of real property located within ¼ mile of the proposed facility site boundary, along with a numeric key that identifies the property they own. This key is the same as shown on the Land Ownership Map, Figure 3. This list of landowners and those shown on the Land Ownership Map were obtained from the Webb County Appraisal District deed records, and are the most current available records as of the date of this permit application. Parcel 1 is the proposed PERC site. This parcel is owned by the Applicant, Rancho Viejo Waste Management, LLC.

Parcel 1 - Rancho Viejo Waste Management, LLC  
1116 Calle del Norte  
Laredo, TX 78041

Parcel 2 - Rancho Viejo Cattle Company, LTD  
1116 Calle del Norte  
Laredo, TX 78041

Parcel 3 - Volz Arthur C. Jr.  
4072 Sucia Dr.  
Ferndale, WA 98248-9506

Volz James Richard  
310 Westmont Dr.  
Laredo TX 78041-2745

Zuck Sally Ann Volz  
1609 Matamoros St.  
Laredo, TX 78040-7714

Martin Margaret Lucille  
215 W. Bandera Rd. Ste 114-619  
Boerne, TX 78006-2820

Dammier Martin Catherine  
2901 Teckla Blvd.  
Amarillo, TX 79106-6137

Martin Robert Henry  
3005 Wincrest Cir.  
Laredo, TX 78045-8149

Martin Thomas Frederick  
P.O. Box 430184  
Laredo, TX 78043-0184

Dammier Jordan Trust  
2901 Teckla Blvd.  
Amarillo, TX 79106-6137

Martin John M. III  
414 Plymouth Ln.  
Laredo, TX 78041-2735

Martin Kristell L. Trust  
3005 Wincrest Cir.  
Laredo, TX 78045-8149

Martin Catherine Marie Trust  
1301 Kimberly Dr.  
Laredo, TX 78045-7558

Martin Michael Trust  
414 Plymouth Ln.  
Laredo, TX 78041-2735

Martin John M IV Trust  
414 Plymouth Ln.  
Laredo, TX 78041-2735

Martin Matthew Trust  
P.O. Box 430184  
Laredo, TX 78043-184

Martin Melissa Marie Trust  
P.O. Box 430184  
Laredo, TX 78043-0184

Martin Thomas F. Jr.  
P.O. Box 430184  
Laredo, TX 78043-184

Following are owners of the mineral interest beneath the facility:

Amcon Resources  
P.O. Box 3025  
Oklahoma City, OK 73101-3025

Benavides Family Mineral Trust  
Arturo Benavides  
P.O. Box 217  
Laredo, TX 78042-0217

Hausser, Robert  
405 Terrell Rd.  
San Antonio, TX 78209-5919

Horvet, Elizabeth Ann Sentz  
125 Bridgeway Cir.  
Longwood, FL 32779-4902

Hurd Enterprises Ltd.  
% L B Walker & Associates  
13111 NW Frwy. Ste. 125  
Houston, TX 77040

Killiam Oil Company, Ltd.  
Royalty Accounts  
% L B Walker & Associates  
13111 NW Frwy. Ste. 125  
Houston, TX 77040

Mitchell Minerals, LLC  
P.O. Box 448  
Henryetta, OK 74437

Sentz, Charles Christopher  
P.O. Box 160548  
Altamonte Springs, FL 32716

Sentz, James N.L. Trust  
FBO S L Sentz, Robert W. Sentz, Trustee  
5501 Wayne Ave. Apt. 201  
Philadelphia, PA 19144-3326

Sentz, John Thomas  
234 Rainbow Dr. Ste. 13420  
Livingston, TX 77399-2034

Sentz, Robert Winston  
5501 Wayne Ave. Apt. 201  
Philadelphia, PA 19144-3326

Sentz, Suzanne Louise  
22156 NW 9<sup>th</sup> Pl.  
Gainesville, FL 32605-5201

Warren, Andrea R. Trust  
J.P. Bradley & David Purdy Co-Trustee  
2490 Black Rock Tpke. #307  
Fairfield, CT 06825-2400

Warren, Wendy U. Trust  
James P Bradley, Trustee  
% David E. Purdy CPA  
2490 Black Rock Tpke. #307  
Fairfield, CT 06825-2400

ConocoPhillips Company  
Property Tax Division – Mineral  
% Rpa-Ptrrc Dept.  
P.O. Box 2197, 2 WL 8024F  
Houston, TX 77252

Following are the easement holders of record for the facility according to Webb County Appraisal District (WCAD):

United Texas Transmission Co.  
NO ADDRESS AVAILABLE AT WCAD

Conoco, Inc.  
NO ADDRESS AVAILABLE AT WCAD

Conoco-Phillips Co.  
NO ADDRESS AVAILABLE AT WCAD

However, United Texas Transmission Co. has been acquired by Kinder Morgan Energy Partners, L.P. and Conoco, Inc. merged with Phillip Petroleum to form Conoco-Phillips Inc. These two remaining easement holders may be contacted as follows:

Conoco-Phillips Inc.  
4298 Mangana Hein Road  
Laredo, TX 78043

Kinder Morgan Pipeline Co.  
1902 Bob Bullock Loop  
Laredo, TX 78043

# ATTACHMENT C

## Compliance History

Rancho Viejo Waste Management , LLC

TCEQ Docket No. 2013-1506-MSW

Permit No. 2374

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PENDING** Compliance History Report for CN603835489, RN106119639, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN603835489, Rancho Viejo Waste Management, LLC	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN106119639, PESCADITO ENVIRONMENTAL RESOURCE CENTER	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	1116 CALLE DEL NORTE LAREDO, TX 78041-6076, WEBB COUNTY		
<b>TCEQ Region:</b>	REGION 16 - LAREDO		
<b>ID Number(s):</b>	MUNICIPAL SOLID WASTE DISPOSAL PERMIT 2374		
<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b> 2013	<b>Rating Date:</b> 09/01/2013
<b>Date Compliance History Report Prepared:</b>	September 12, 2013		
<b>Agency Decision Requiring Compliance History:</b>	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
<b>Component Period Selected:</b>	March 12, 2007 to September 12, 2013		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	BOBBIE ROGANS	<b>Phone:</b>	(512) 239-6197

## Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, 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

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

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.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# ATTACHMENT D

Technical Summary and Draft Permit

Rancho Viejo Waste Management , LLC

TCEQ Docket No. 2013-1506-MSW

Permit No. 2374

# Texas Commission on Environmental Quality



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## LAND-USE COMPATIBILITY DETERMINATION APPLICATION NO. 2374

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APPLICATION BY RANCHO VIEJO	§	BEFORE THE TEXAS
WASTE MANAGEMENT, LLC	§	COMMISSION ON
FOR LAND-USE COMPATIBILITY	§	ENVIRONMENTAL QUALITY
DETERMINATION		
MSW NO. 2374	§	

### ORDER

An application by Rancho Viejo Waste Management, LLC - Pescadito Environmental Resource Center for a land-use compatibility determination regarding an application for a new municipal solid waste Type I landfill and Type V liquid waste processing facility was presented to the Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") for approval pursuant to Section 5.122 of the TEXAS WATER CODE and 30 TEXAS ADMINISTRATIVE CODE (TAC) §50.133.

The facility is proposed to be located approximately 5 miles southeast of U.S. Highway 59 at Ranchitos Las Lomas in Webb County, Texas. As allowed by the TEXAS HEALTH AND SAFETY CODE §361.069 and 30 TAC §330.57, the applicant has requested that the TCEQ make a separate land-use compatibility determination regarding this application. The land-use portion of the permit application was received by the TCEQ on April 15, 2011.

The Executive Director reviewed the application and determined that the application adequately addresses the requirements of 30 TAC §330.59 and §330.61.

All public notice requirements have been satisfied. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit and the Notice of Application and Preliminary Decision for the land-use compatibility application were published and mailed in accordance with the requirements of the TEXAS SOLID WASTE DISPOSAL ACT and Chapter 39 of the Commission's rules.

Timely requests for contested case hearing were filed with the Chief Clerk.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

Pescadito Environmental Resource Center  
MSW Land Use Determination Application No. 2374  
Order  
Page 2 of 2

The municipal solid waste Type I landfill and Type V liquid waste processing facility proposed by Rancho Viejo Waste Management, LLC - Pescadito Environmental Resource Center under Land Use Compatibility Determination Application No. 2374 is deemed to be compatible with the surrounding land uses.

In accordance with 30 TAC §50.133(b), the Office of the Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the applicant, the Office of Public Interest Counsel, and the individuals who timely filed public comment.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issued Date:

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Bryan W. Shaw, Ph.D.,  
Chairman

TEXAS COMMISSION ON  
ENVIRONMENTAL  
QUALITY

Technical Summary  
of the

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Pescadito Environmental Resource Center  
MSW Land-Use Compatibility Determination  
Application  
No. 2374

Type I & Type V  
Municipal Solid Waste Facility  
Webb County, Texas

Applicant:  
Rancho Viejo Waste Management, LLC

Date Prepared: July, 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 on the land use compatibility determination application. Not all of the information contained in this summary has been independently verified.

Name of Applicant: Rancho Viejo Waste Management, LLC  
1116 Calle del Norte  
Laredo, Texas 78041

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Name of Facility: Pescadito Environmental Resource Center

Contact Person: Mr. C. Y. Benavides, III, Manager  
1116 Calle del Norte  
Laredo, Texas 78041  
956-523-1400

Consulting Engineers: Mr. James F. Neyens, P.E.  
TRC Environmental Corporation  
505 East Huntland Drive Suite 250  
Austin, Texas 78752  
512-329-6080

Type of Facility: Type I Municipal Solid Waste (MSW) Landfill Facility (1,110 acres)  
Type V Liquid Waste Processing Facility (Grease Trap and Grit  
Trap Wastes)

## 1. General

### 1.1 Purpose:

The MSW application Parts I & II, submitted by Rancho Viejo Waste Management, LLC, is only for the determination of compatibility with current land use for a new Type I MSW landfill, including nonhazardous Class 1 industrial solid waste cells, and a Type V liquid waste processing facility in Webb County, Texas. If the facility is determined to be acceptable on the basis of land use, the executive director may consider technical matters related to a permit application (including Parts III & IV) at a later time. A recycling facility is included in the application and may also be proposed at that time. The total permitted facility will include 1,110 acres of land, of which approximately 800 to 850 acres will be used for waste disposal. The final elevation of the landfill final cover material will be 935 feet (msl). The liquid waste processing facility will accept and process grease and grit trap waste. The site will be authorized to accept the waste streams listed below.

### 1.2 Wastes to be Accepted:

Solid waste to be disposed of will primarily consist of municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, recreational and industrial activities, including garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, yard waste, Class 1 non-hazardous industrial

solid waste, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, and special waste. The proposed landfill and liquid waste processing facility will not be authorized to accept waste materials other than those mentioned above. Furthermore, waste streams that are expressly prohibited by Title 30 of the Texas Administrative Code (30 TAC) Chapter 330, Section 330.15 may not be accepted.

1.3 Waste Acceptance Rate:

Authorized wastes will be accepted at an anticipated initial rate of approximately 2,750 tons-per-day.

The acceptance of Class 1 non-hazardous industrial solid waste will be limited to no more than 20% of the total amount of waste (not including Class 1 wastes) accepted during the current or previous year.

The Type V Grease and Grit Trap facility will have a permitted maximum daily acceptance rate 50,000 gallons.

2. **Location and Size.**

2.1 Location:

Pescadito Environmental Resource Center will be located in Webb County, Texas approximately 20 miles east of the City of Laredo and, 5 miles southeast of U.S. Highway 59 at the community of Ranchitos Las Lomas. Refer to the General Location Map, Attachment 1 to this Technical Summary.

2.2 Elevation and Coordinates of Permanent Benchmark:

Latitude: N 27° 33' 32.4"

Longitude: W 99° 09' 35.994"

Elevation: 564.67 feet above mean sea level (msl)

2.3 Size:

The total area within the permit boundary under the land use compatibility determination request will be approximately 1,110 acres.

3. **Facility Design, Construction, and Operations.**

3.1 Facilities Authorized:

The owner/operator has requested a land use only determination and has submitted a partial application consisting of Parts I and II. If the facility is determined to be acceptable on the basis of land use, the executive director may consider technical matters related to a permit application at a later time. All waste disposal operations will be limited to the units and other features to be identified in a permit application, Part III, Site Development Plan and Part IV, Site Operating Plan.

- 3.1.1. Type I municipal solid waste landfill facility with a disposal footprint of approximately 800 to 850 acres and a Type V grease and grit trap processing facility. The facility would also contain a gatehouse, scales, perimeter drainage features, groundwater monitoring wells along the landfill perimeter, a system of gas monitoring probes, and a recycling facility.
- 3.1.2. The facility and other improvements will be built, operated, and/or maintained in accordance with the conditions of a permit, Parts I - IV of a permit application, and commission regulations, should the facility be determined to be acceptable on the basis of land use, and the applicant submit a complete permit application. The facility would be managed in a manner that would be protective of human health and the environment.

#### 4. Land Use

- 4.1. The location of the proposed site is in Webb County, Texas, approximately 20 miles east of the City of Laredo and 5 miles southeast of U.S. Highway 59 at the community of Ranchitos Las Lomas.
- 4.2. The proposed facility will be located outside of the incorporated limits of any city and will, therefore, not be subject to city zoning ordinances.
- 4.3. The surrounding land is used for cattle ranching and the production of natural gas.
- 4.4. Structures located within one mile of the permit boundary include three residences consisting of two houses and one mobile home, and an occasional travel trailer. The residences house employees of Yugo Ranch, which is owned by the applicant.
- 4.5. Considerations for Land-Use Application – Location Restrictions:
  - 4.5.1 Areas within the site have been identified by a Flood Insurance Rate Map (FIRM) as being floodplain areas. The applicant has submitted preliminary documents to the Webb County Planning Department for a Conditional Letter of Map Revision to redirect floodplain areas off of the site, through the construction of dikes, drainage channels, and detention ponds.
  - 4.5.2 The applicant conducted a wetland evaluation and wetland determination. Because jurisdictional wetlands exist at the location, the applicant will obtain a Section 404 permit from the United States Corps of Engineers for the use of wetland areas.
  - 4.5.3 The proposed facility location may contain habitat or range conditions that may result in the occurrence of endangered or threatened species. A biological evaluation was completed and submitted to the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service. The Texas Parks and Wildlife Department responded with recommendations.
  - 4.5.4 The applicant has identified the intent to accept nonhazardous Class 1 industrial solid waste for disposal in specialized cells throughout the landfill and is required to address the location of this type of cell with respect to site-specific subsurface soil conditions and/or local climate and any regional aquifers beneath the site.

- 4.5.5 The application indicates that no faulting, active or inactive, is known to exist within 200 feet of the site. Area gas wells are not known to have experienced or generated problems that might be related to faulting.
- 4.5.6 The United States Geological Survey Seismic Hazard Map shows the facility location, at 2 to 4 per cent probability of exceeding 2% of the earth's gravitational pull in 50 years, to be below the threshold (10 per cent) for a seismic impact zone.
- ~~4.5.7 A minimum buffer zone of 125 feet within and adjacent to a landfill permit boundary must be established and maintained. No waste management activities may occur within a buffer zone.~~
- 4.5.8 Easements located in areas proposed to be used for waste management may be removed. Otherwise, the disposal of solid waste shall not occur within 25 feet of the center line of any pipeline easement.
- 4.5.9 The nearest known airport used for commercial or general aviation is the Laredo International Airport which is located more than 20 miles west of the site. The Federal Aviation Administration was contacted and did not object to the location of the landfill site.

## **5. Transportation and Access**

- 5.1 The primary access to the site is through State Highway 359. Traffic would go northerly on Jordan Road, travel approximately 5 miles, and onto a private road to approach the facility entrance. The private road is owned by the applicant.
- 5.2 Direct access to the site is from an all-weather surfaced, private road on property owned by the applicant. The main access road to the private road and the site is Jordan Road, a county road with no posted vehicle weight limits. Jordan Road is accessed from State Highway 359. The nearest traffic count that was available to the applicant was obtained from the Texas Department of Transportation (TxDOT) for traffic on State Highway 359, three miles east of Loop 20. Loop 20 intersects State Highway 359 near the City of Laredo. The facility is approximately 20 miles east of the City of Laredo. For the five-year period from 1995 through 1999, the average daily traffic count was 6,080 vehicles per day. The average daily traffic count at this location in 2009 was 8,800 vehicles per day. Based on this increase, projection for the year 2021 is anticipated to be 12,760 vehicles and 18,500 vehicles for the year 2033. The majority of waste and recyclable materials to be taken to the facility are proposed to be hauled by rail. Therefore, the site related traffic is not anticipated to significantly impact the estimated future traffic conditions. 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 Laredo International Airport, the nearest known airport, is more than 20 miles from the site. The Federal Aviation Administration was contacted and did not object to the location of the landfill site.

## 6. Surface Water Protection

### 6.1 Floodplain:

Portions of the proposed facility are located within the 100-year floodplain, as indicated on the current floodplain map, the Flood Insurance Rate Map (FIRM). However, several man-made livestock watering tanks and the dams that form these tanks were not considered when the map was compiled. The facility design would include a stormwater management system of dikes, drainage channels, and detention ponds that would remove the area from the 100-year floodplain, if the site is determined to be compatible and a complete application were submitted. A Conditional Letter of Map Revision (CLOMR) has been submitted to the Webb County Planning Department (WCPD), the local floodplain management authority, for review. The intent of the CLOMR is to demonstrate how drainage plans would remove the proposed waste management areas from the 100-year floodplain. With approval from the WCPD, the CLOMR application will be submitted to the Federal Emergency Management Agency for their approval.

### 6.2 Stormwater:

Because the site slopes gently from north to south at about 0.5 to 1 per cent, near surface soils have very low permeability, and the site is uniformly covered with native vegetation, surface hydrology is relatively consistent. Shallow swales with no bed-and bank features convey drainage from the site. Livestock watering tanks that were created on site by shallow excavation and embankment construction across the swales have significantly altered drainage patterns.

### 6.3 Contaminated Water:

Specific details pertaining to the management of stormwater which comes in contact with solid waste must be provided if the land-use application is determined to be acceptable and a complete application is submitted. Stormwater, which comes in contact with solid waste, must be properly contained and managed as contaminated water. No contaminated water may be discharged from the site.

## 7. Groundwater Protection

### 7.1 Groundwater Protection:

Specific details pertaining to the design of a landfill liner and final cover systems, while not addressed in the land-use application, must be provided if the land-use application is determined to be acceptable and a complete application is submitted. The final cover and liner systems must be designed to reduce the potential for impacts to groundwater at the site resulting from waste disposal operations. The liner system must also address leachate management.

### 7.2 Monitoring Wells:

The groundwater monitoring system, which would provide for early detection of potential releases from the facility, would consist of a total of 48 wells along the periphery of the landfill. More specific details pertaining to the design of the groundwater monitoring system must be provided if the land-use application is determined to be acceptable and a complete application is submitted. The

groundwater monitoring network would be sampled, analyzed, and monitored in accordance with procedures in a Groundwater Sampling and Analysis Plan that would be submitted as part of a complete permit application, within Part III, Site Development Plan.

**8. Control of Methane**

Landfill gas migration would be monitored around the perimeter of the facility using permanent landfill gas monitoring probes (LGMP) spaced from 600 feet to 1,000 feet apart. More specific details pertaining to the design of the landfill gas monitoring system must be provided if the land-use application is determined to be acceptable and a complete application is submitted. 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**

Part III, Site Development Plan (SDP), and Part IV, Site Operating Plan (SOP) are required for a complete application if the land use is determined to be acceptable. The SDP and SOP are intended to provide details from the design engineer to facility site management and operating personnel to facilitate implementation, development, and operation of the solid waste management facility.

**10. Protection of Endangered Species**

The applicant conducted a site reconnaissance and evaluation and determined that the site may contain habitat or range conditions that may result in the occurrence of endangered or threatened species. A biological evaluation was completed and provided to the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service. The Texas Parks and Wildlife Department responded with recommendations. Specific criteria for the protection of any identified endangered species must be provided if the land-use application is determined to be acceptable and a complete application is submitted.

**11. Protection of Wetlands**

A wetland evaluation was conducted at the proposed facility location, indicating a potential for jurisdictional wetlands in and near the constructed livestock watering tanks. A wetland determination confirmed that certain areas at the site meet the criteria for jurisdictional waters. The application indicates that the U.S. Army Corps of Engineers (USACE) concurs with this finding and the applicant intends to obtain a USACE Section 404 permit for the use of wetland areas. The applicant must have an issued, USACE permit for the use of a wetlands area before a MSW landfill permit may be issued, in accordance with 30 TAC Section 330.61(m)(2).

**12. Financial Assurance**

If the land-use application is determined to be acceptable and a complete MSW permit application were submitted, authorization to operate this facility would be contingent upon the maintenance of financial assurance in accordance with 30 TAC Chapters 330 and 37, Financial Assurance, and the provisions contained in a MSW 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 Land-Use Application
#1	General Location Map	Part I, Figure 1
#2	General (Site) Location Map	Part II, Figure 1
#3	Land Use Map	Part II, Figure 8
#4	Supp. Land Use Map	Part II, Figure 9
#5	General Phasing Drawing	Part II, Figures 4 & 5

**14. Additional Information**

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

Mr. Pladej Hunt Prompungorn  
MSW Permits Section, MC 124  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
(713) 767-3672

For more specific detailed technical information concerning any aspect of this application, please contact the Applicant's Agent or the Applicant at the address provided at the beginning of this summary.

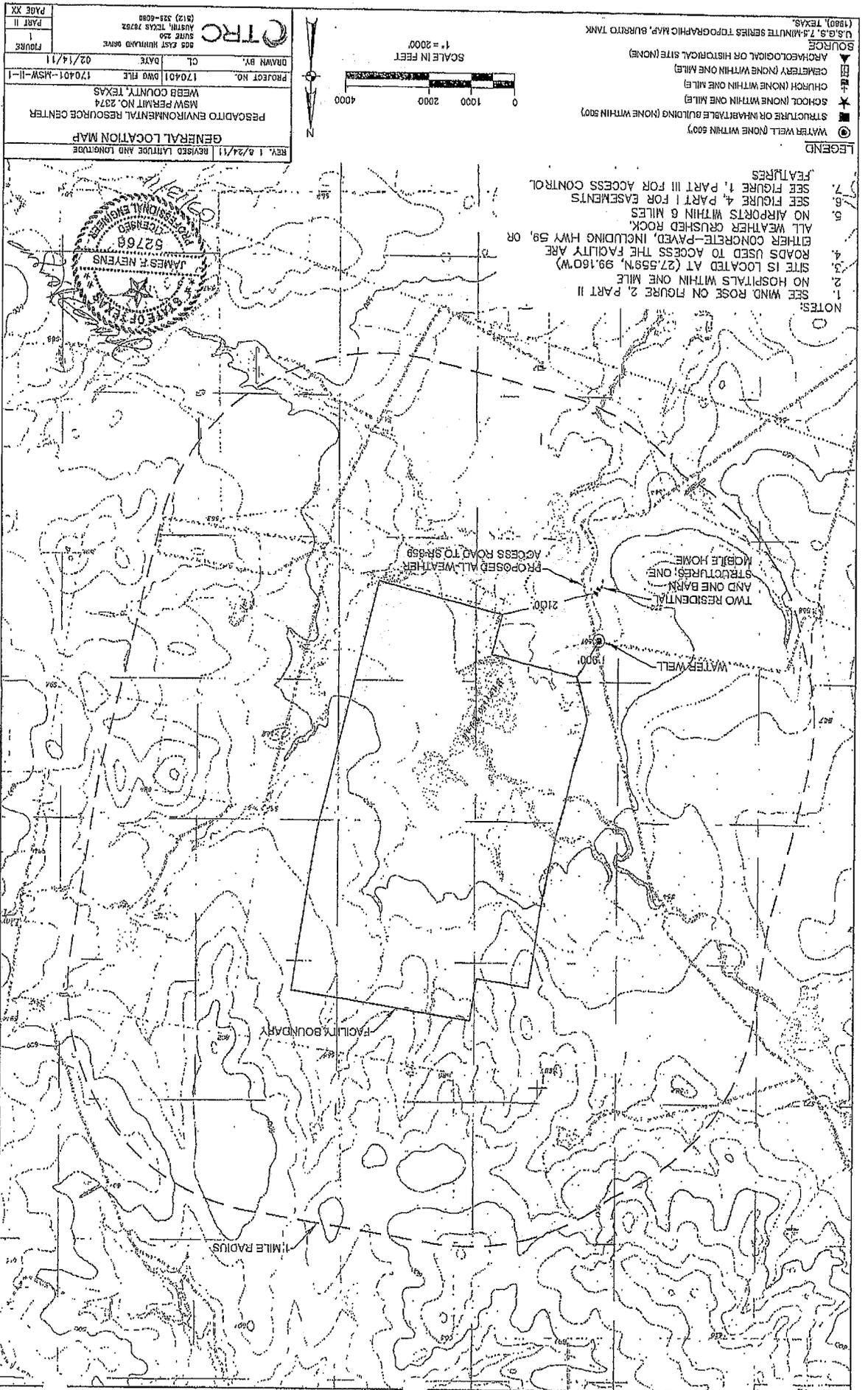
**15. Public Participation Process**

The process through which the public is allowed to participate in the final decision on the land use determination application is outlined below. The decision will be issued through a TCEQ order on the land use determination application.

- 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.
- 15.2 Technical review of the application is completed, a final draft determination is prepared, and the application is declared technically complete. Information for the application, the draft order, the notice, and summaries are sent to the Chief Clerk's office for processing.
- 15.3 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 determination. The notice also allows the public to request a public meeting for the proposed facility.

- 15.4 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 contested case hearing.
- 15.5 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 contested case hearing.
- 15.6 A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the contested case 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 determination.
- 15.7 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.
- 15.8 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.





Technical  
 Summary

Attachment 2 (Site) Location Map

Source: Application Part II Figure 1



# ATTACHMENT E

Executive Director's Response to Public Comment

Rancho Viejo Waste Management , LLC

TCEQ Docket No. 2013-1506-MSW

Permit No. 2374

# TCEQ Permit No. 2374

Application by §  
Rancho Viejo §  
for Municipal Solid Waste §  
Permit No. 2374 §

Before the  
Texas Commission on  
Environmental Quality

CHIEF CLERK'S OFFICE

2013 JUN 28 PM 12:17

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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## Executive Director's Response to Public Comment

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The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) received on the application by Rancho Viejo (Applicant), for a new Municipal Solid Waste (MSW) Permit Number 2374 (Application) and on the Executive Director's preliminary decision. As required by Title 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 written comments, as well as oral comments at the public meeting, held on February 28, 2013. This Response includes a list of all written and oral commenters in **Attachment A**. Many individuals submitted written comments in one of three identically worded letters. This Response refers to these letters as Group 1, Group 2, and Group 3. The individuals who submitted these comments are identified by group in **Attachment A**.

This response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the municipal solid waste permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.gov](http://www.tceq.state.gov).

### I. Background

#### A. Description of Facility

Rancho Viejo has applied to the TCEQ for an MSW permit to construct and operate the Pescadito Environmental Resource Center, which would include a new Type

I MSW landfill, a Type V Grease and Grit Trap waste processing facility, and a recycling facility. The facility is proposed to be located approximately five miles southeast of U.S. Highway 59 at Ranchitos Las Lomas, Laredo, Webb County, Texas. The total permitted area would include 1,100 acres of land, of which approximately 800 to 850 acres would be used for waste disposal. The final elevation of the landfill final cover material would be 935 feet above mean sea level (MSL). The site would be authorized to accept municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, and recreational activities. This would include garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, and yard waste. The facility would also be authorized to accept industrial waste, including Class 1 non-hazardous industrial solid waste, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, and special waste. Waste would be accepted at an anticipated initial rate of approximately 2,750 tons per day. The acceptance of Class 1 non-hazardous industrial solid waste would be limited to no more than 20% of the total amount of waste (not including Class 1 wastes) accepted during the current or previous year. The Type V Grease and Grit Trap waste processing facility will have a permitted maximum daily acceptance rate of 50,000 gallons.

### ***B. Procedural Background***

Parts I and II of the Application were received by the TCEQ on April 15, 2011, and declared administratively complete on June 1, 2011. The Notice of Receipt of Application and Intent to Obtain a Permit was published in the *Laredo Morning Times* on June 29, 2011, and in Spanish in *El Mañana* on June 29, 2011. The Executive Director completed the technical review of the Application on July 3, 2012, and prepared a draft compatibility determination order. The Notice of Public Meeting was published in the *Laredo Morning Times* on February 9, 2013, February 14, 2013, and February 21, 2013. A public meeting was held on February 28, 2013, at Texas A & M International University Student Center, located at 5201 University Drive, Laredo, Texas 78041. The Notice of Application and Preliminary Decision was published in the *Laredo Morning Times* on March 30, 2013, and in Spanish in *El Mañana* on February 25, 2013. The