

TCEQ DOCKET NO. 2016-1211-MSW

**APPLICATION BY IESI TX LANDFILL LP §
FOR AN AMENDMENT TO TCEQ §
MSW PERMIT NO. 1983B FOR THE §
FORT WORTH C&D LANDFILL IN §
TARRANT COUNTY, TEXAS §**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

APPLICANT’S RESPONSE TO HEARING REQUESTS

IESI TX Landfill LP (“IESI”), the applicant in the above-docketed matter, files this response to the requests for a contested case hearing filed by eleven individuals between March 21, 2016 and April 14, 2016. The hearing requests were filed in relation to IESI’s application for an amendment to MSW Permit No. 1983B for the company’s existing Fort Worth C&D Landfill in Tarrant County, Texas. The predominant concern expressed by the hearing requestors is recurring landfill odors in the community. It is apparent from a review of the TCEQ’s complaint database, however, that the odor complaints which have triggered these hearing requests actually relate to a different landfill with a similar sounding name that is located along the same roadway. The other nearby landfill accepts household garbage and putrescible wastes in closer proximity to all but one of the hearing requestors’ residences. None of the hearing requestors is located within one-half mile of the existing Fort Worth C&D Landfill, which is prohibited from accepting any household garbage or putrescible wastes and generally disposes of brush, construction/demolition wastes, and rubbish. This appears to be a case of confusion and mistaken identity.

IESI respectfully requests the Commissioners deny all of the hearing requests based on each of the requestors’ (i) failure to substantially comply with the agency’s regulations at 30 Tex. Admin. Code (“TAC”) § 55.201 (relating to *Requests for Reconsideration or Contested Case Hearing*); (ii) failure to demonstrate they are “persons affected” as defined by the TCEQ’s enabling statutes and rules including Tex. Water Code § 5.115(a) (relating to *Persons Affected in Commission Hearings*), Tex. Health and Safety Code § 361.003(24) (relating to *Definitions; Person Affected*), and 30 TAC § 55.203(c) (relating to *Determination of Affected Person*); and (iii) failure to establish a concrete and particularized injury in fact that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on their complaints. *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 416–17 (Tex. 2013).

I. BACKGROUND

Description of Facility:

IESI is the owner and operator of a 78-acre “Type IV” landfill (known as the Fort Worth C&D Landfill) located on a 152-acre site approximately 15 miles southeast of downtown Fort Worth along the west side of Dick Price Road and adjacent to the City of Kennedale in Tarrant County. *See Exhibit A (Area Map)*. Disposal operations commenced at the site in 1997 and the landfill’s disposal capacity is expected to be depleted in approximately 2023. IESI is seeking an amendment to MSW Permit No. 1983B to increase the disposal capacity of the landfill through a vertical expansion and extend the life of the facility by approximately 12 years. The amendment application also includes updates and revisions to the facility’s site development plan, waste acceptance plan, site operating plan, and other supporting documents. Pursuant to 30 TAC § 330.5(a)(2), a Type IV landfill unit may accept brush, construction/demolition waste, and rubbish. Agency rules authorize the disposal of other solid wastes having the same or similar characteristics. Unlike a “Type I” landfill, however, the Fort Worth C&D Landfill may not accept household waste, conditionally exempt small quantity generator waste, or putrescible waste. *See Exhibit B (Draft Permit)*. Putrescible waste is defined by TCEQ as organic material, such as garbage, wastewater treatment plant sludge, and grease trap waste, which is capable of decomposition by microorganisms with sufficient rapidity as to cause odors or gases. *See 30 TAC § 330.3(119)*. A nearby Type I landfill (known as the Fort Worth SE Landfill) is located approximately one-half mile north of the Fort Worth C&D Landfill along the west side of Dick Price Road. *See Exhibit A (Area Map)*.

Procedural Background:

IESI’s amendment application was filed on March 4, 2015, and declared administratively complete on May 5, 2015. No public comments were filed in response to the initial public notice. The TCEQ’s Executive Director (“ED”) completed the technical review of the application and issued a preliminary decision and draft permit on March 1, 2016. In response to the *Notice of Application and Preliminary Decision* mailed on March 8, 2016 and published on March 19, 2016, thirteen requests for a public hearing were initially filed. Two of those requests were subsequently withdrawn. *See Exhibit C (Withdrawal Letters)*. The ED determined that the criteria for holding a public meeting in Tarrant County had not been satisfied in this case (*e.g.*, no “substantial or significant degree of public interest in an application”) pursuant to 30 TAC § 55.154(c) (relating to *Public Meetings*).

The ED issued a formal response to public comments on June 17, 2016 (“RTC”)¹, which was transmitted to each of the hearing requestors on June 20, 2016, along with the written *Decision of the Executive Director* that IESI’s application meets the requirements of applicable

¹ The ED’s original RTC was issued on June 15th with some errors in the notice publication dates. An amended RTC was issued on June 17th with corrected publication dates.

law. *See* Exhibit D (RTC) and Exhibit E (Decision of the ED). None of the individuals who requested a contested case hearing filed either a request for reconsideration of the ED's decision or a further request for a contested case hearing specifying any of the ED's responses to comments that are disputed, the factual basis of any dispute, or any disputed issues of law or policy, as requested in writing by the TCEQ.

An IESI representative personally visited with many of the persons who filed hearing requests in a good faith effort to clarify which of the two landfills the company owns/operates, the types of solid waste the facility is permitted/precluded from accepting, and the nature of the requested permit amendment. Such discussions validated the apparent confusion as to which of the two landfills was the focus of their odor concerns and which facility was pursuing an expansion. They generally acknowledged having confused and misidentified the two different facilities. As one might expect, however, the company's ability to secure formal written withdrawals from all such persons was limited.

II. RESPONSE TO COMMENTS AND THE ADMINISTRATIVE RECORD

The ED's RTC dated June 17, 2016, fully addresses each of the concerns expressed by the hearing requestors, including the predominant (if not sole) potentially relevant issue raised by all hearing requestors residing within 2½ miles of the site—potential nuisance odors. The RTC also addresses potentially relevant issues raised by persons residing more than 2½ miles from the site, including the potential for runoff contamination. The remaining issues raised by the hearing requestors are not relevant and material to the Commission's determination.

As reflected in the RTC and the *Decision of the Executive Director* transmitted to the hearing requestors on June 20, 2016, the ED determined that IESI's application meets the requirements of applicable law. Rather than reiterating the ED's detailed technical responses to the hearing requestors' concerns and the ED's decision not to make any changes to the final draft permit, IESI hereby references and affirms the ED's Response No. 1 (relating to Odors), Response No. 5 (relating to Potential Health Problems), and Response No. 6 (relating to Runoff Contamination) which are set forth on pages 4 – 7 of the RTC. *See* Exhibit D (RTC). IESI further requests the Commissioners take official notice of IESI's municipal solid waste permit amendment application for Permit No. 1983C, which was certified by IESI and bears the seals of IESI's professional engineers and other licensed consulting experts including the portions of the application referenced by the ED in the RTC. Additionally, IESI requests the Commissioners take official notice of the ED's *Technical Summary* dated January 22, 2016 (Exhibit F), the ED's *Preliminary Decision* dated March 8, 2016 (Exhibit G), and the ED's *Final Draft Permit No. 1983C* (Exhibit B).

Pursuant to the Texas Supreme Court's decision in *Texas Commission on Environmental Quality v. City of Waco*, the Commissioners may consider the foregoing documents as part of the administrative record in determining whether the hearing requestors are in fact "persons

affected” under the TCEQ’s statutes and regulations. 413 S.W.3d 409 (Tex. 2013); *see also*, *Tex. Comm’n on Env’tl. Quality and Waste Control Specialists, LLC v. Sierra Club*, No. 03-12-00335-CV, 2014 WL 1584511, at *5–6 (Tex. App.—Austin Apr. 18, 2014). IESI respectfully requests the Commissioners do so in the process of determining that the hearing requestors are not persons affected for purposes of a contested case hearing on the pending amendment application.

III. LEGAL AUTHORITY

Form of Hearing Request:

30 TAC § 55.201(a) provides that, “[a] request for reconsideration or contested case hearing must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director’s decision and response to comments and provides instructions for requesting that the commission reconsider the executive director’s decision or hold a contested case hearing.” 30 TAC § 55.201(a). Further, as provided in subsection (d) of the rule, a hearing request “must substantially comply” with the following:

- (1) 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;
- (2) 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 manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) 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 responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d)(1)-(5) (emphasis added).

Affected Person Requirement:

Tex. Water Code § 5.556(c) (relating to *Request for Reconsideration or Contested Case Hearing*) provides that “[t]he commission may not grant a request for a contested case hearing unless the commission determines that the request was filed by an affected person.” Tex. Water Code § 5.556(c) (emphasis added). In this regard, 30 TAC § 55.211(c)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*) provides that a request for a contested case hearing shall be granted if, among other things, the request is made by an “affected person” and the person complies with the requirements of § 55.201 discussed above. Consistent with Tex. Water Code § 5.115(a), 30 TAC § 55.203(a) provides that: “For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.” 30 TAC § 55.203(a) (emphasis added).

Additionally, Tex. Health and Safety Code § 361.003(24) provides that:

“Person affected” means a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government:

(A) is a resident of a county, or a county adjacent or contiguous to the county, in which a solid waste facility is to be located; or

(B) is doing business or owns land in the county or adjacent or contiguous county.

Tex. Health and Safety Code § 361.003(24) (emphasis added).

In determining whether a person is an “affected person,” the following factors, among others, are required to be considered under the TCEQ’s rules:

- (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 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 § 55.203(c)(1)-(6) (emphasis added).

Furthermore, in *Tex. Comm'n on Env'tl. Quality v. City of Waco*, the Texas Supreme Court recognized the Austin Court of Appeals' conclusion that the definition of "affected person" embodies the constitutional principles of standing, thereby requiring a protesting party to "establish a concrete and particularized injury in fact, not common to the general public, that is: (1) actual or imminent; (2) fairly traceable to the issuance of the permit as proposed; and (3) likely to be redressed by a favorable decision on its complaint." 413 S.W.3d 409, 417 (Tex. 2013); *see also Tex. Comm'n on Env'tl. Quality and Waste Control Specialists, LLC v. Sierra Club*, No. 03-12-00335-CV, 2014 WL 1584511, at *5 (Tex. App.—Austin Apr. 18, 2014).

IV. ANALYSIS OF HEARING REQUESTS

Hearing Requests Generally

Attached hereto is a *Table of Hearing Requestors* that generally summarizes for each hearing requestor his or her approximate proximity to the Fort Worth C&D Landfill (based on return address information), potentially relevant (and other non-relevant) issues raised in his or her hearing request, and whether he or she has demonstrated standing under the legal principles set forth above. *See* Exhibit H (Table of Hearing Requestors).

At the outset, and generally with regard to all of the hearing requestors, particularly those who have raised complaints about the recurrence of landfill odors as the basis for their hearing request, we respectfully request the Commissioners consider the following:

- (i) This appears to be a case of confusion and mistaken identity. There are two different landfills located west of the City of Kennedale along Dick Price Road. *See* Exhibit A (Area Map). One of those landfills is a Type I facility, the Fort Worth SE Landfill, which accepts traditional household garbage and other solid waste streams that include putrescible materials capable of being decomposed by microorganisms with sufficient rapidity to cause odors or gases. It is located along *North* Dick Price Road and is owned and operated by unaffiliated entities. The second landfill is a Type IV facility, the Fort Worth C&D Landfill, that accepts brush, construction/demolition waste, and rubbish generated primarily by residential and commercial builders and renovators. It is located along *South* Dick Price Road and is owned and operated by IESI, the applicant in this case. Type IV facilities, including the landfill that is the subject of the pending permit amendment application, are expressly precluded from accepting any household garbage and putrescible waste streams. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit); and 30 TAC § 330.5(a)(1)-(2).

- (ii) The predominant concern expressed in the hearing requests relates to the substantial recurrence of landfill odors in the community. However, the Fort Worth C&D Landfill is authorized to accept only the types of municipal solid waste that are unlikely to cause odors and is expressly precluded from accepting those types that could potentially produce odors (in contrast with the nearby Fort Worth SE Landfill). Based on TCEQ records of complaints, it is clear that IESI's Type IV landfill on S. Dick Price Road is not a substantial recurring source of odor complaints, which is what one would expect for a facility of this type. The Type IV landfill has been the subject of one odor complaint lodged in 2016 (to-date) and five in 2015, which did not result in a TCEQ notice of violation for nuisance odors. The two nearby facilities are commonly confused. In fact, the Type IV landfill's compliance history does not reflect any TCEQ notices of violation or enforcement for nuisance odors. *See* Exhibit I (Compliance History Report). Conversely, TCEQ's complaint database reflects more than 145 odor complaints in early 2016 (up from 18 complaints during the previous year) attributed to the nearby Type I landfill on N. Dick Price Road, which is located closer to all but one of the hearing requestors. Unfortunately, the substantial increase in the frequency of odor complaints for the nearby Type I landfill generally coincided with the public comment period for the Type IV landfill's permit amendment application.

This year, TCEQ's Region 4 Office convened at least three meetings regarding landfill odor concerns in north Texas, including Tarrant County. To the best of IESI's knowledge, these meetings were conducted at the Region 4 Office in Fort Worth in February, April and July of 2016. Owners and operators of local Type I landfills were invited to attend, including the owner and operator of the Fort Worth SE Landfill. IESI was not invited to attend the meetings, perhaps because it owns and operates a Type IV landfill in Tarrant County. At the meetings, attendees discussed best management practices and methods for reducing potential offsite odors. The meetings may have been convened to address an increase in odor complaints lodged against Type I landfills in Region 4, which could have been due, in part, to weather conditions, acceptance of putrescible sludge, gas collection system construction activities, or other temporary or remediable conditions.

IESI does not express any opinions regarding the operations of other landfill owners and operators, and odor complaints are not synonymous with enforceable nuisance odor conditions. However, IESI does not believe it is appropriate to require a contested case hearing concerning its Type IV landfill application on the basis of odor complaints expressed by persons who do not reside close to the facility—all of whom with one exception are located from about 1½ to 3 miles away—and particularly when the closest hearing requestor resides several blocks from a Type I landfill that

TCEQ's records show has been a substantial recurring source of odor complaints. *See* Exhibit J (Type I Landfill Complaints).

One should also take note of the location and distribution of the hearing requestors, none of whom live to the west or south of the Type IV landfill, despite the existence of residences in those areas. *See* Exhibit A (Area Map). Instead, all but one of the hearing requestors concerned about landfill odors reside to the northeast of the Type IV landfill, in closer proximity to the Type I landfill. Only one hearing requestor resides slightly closer to the Type IV landfill, and she is located to nearly 2 miles due east.

- (iii) Following the close of the recent public comment period, IESI representatives attempted to personally visit with the hearing requestors, to explain which of the two landfills along Dick Price Road is actually the subject of the amendment application and the differences in the types of waste streams and operations. In addition to being located along the same roadway about a half a mile apart, the two landfills have similar sounding names, which has caused further confusion. The residents seemed to appreciate IESI's outreach and explanation and were generally satisfied. As a result, two hearing requestors filed written withdrawals of their hearing requests with the TCEQ's Chief Clerk. *See* Exhibit C (Withdrawal Letters).

- (iv) The TCEQ has established different design, construction and operational requirements for Type I and Type IV landfills in recognition of the significant differences in their respective waste streams and potential for impacting the environment. *See, e.g.*, 30 TAC § 330.5(a)(1)-(2). Consistent with the substantial regulatory differences in the design, construction, and operational requirements for Type IV landfills, the Commissioners should evaluate legal "standing" in a way that recognizes and is consistent with those established, significant differences. For example, IESI does not believe it would be appropriate to apply to an *amendment* application for an *existing* Type IV landfill the same radius of potential impact as for an *original* application for a *new* Type I landfill application. Also, state law and regulations require mailed notice of hearing only to those property owners and residential and business addresses located within ½ mile of a *new* solid waste management facility, not for amendment applications. *See* Tex. Health & Safety Code § 361.081(a) and 30 TAC § 39.501(f). IESI advocates an initial ¼ mile radius of potential impact for an existing Type IV landfill, but with the understanding that it might be reasonable in a given case to extend that radius up to ½ mile based on site-specific technical considerations and the unique interests articulated by a hearing requestor. It would be inappropriate to mechanically apply a 1-mile radius to every landfill application, as though an amendment to an existing Type IV landfill has the

same potential impacts as a new Type I landfill or a major TPDES wastewater discharge directly into a watercourse.

(v) In this particular case, there is no hearing requestor who resides within ¼ mile of the existing Type IV landfill. Nor is there any hearing requestor who resides within ½ mile of the Type IV landfill. The closest hearing requestor resides approximately two-thirds of a mile northeast of the Type IV landfill; yet that person complains of strong odors and resides just several blocks east of a Type I landfill that may be observable from her driveway or street. *See* Exhibit K (Street View Image). All but one of the hearing requestors appear to reside closer to the Type I landfill located along N. Dick Price Road than they do to IESI's Type IV landfill located on S. Dick Price Road, and their predominant complaints relate to landfill odors. Of the 11 hearing requestors:

- 0 requestors reside within ¼ mile of the Type IV landfill (initial radius of potential impact)
- 0 requestors reside within ½ mile of the Type IV landfill (extended radius of potential impact)
- 1 requestor resides between ½ mile and 1 mile of the Type IV landfill but is within approximately ¼ mile of the nearby Type I landfill
- 4 requestors reside between 1 mile and 2 miles of the Type IV landfill and with one exception are located closer to the nearby Type I landfill
- 5 requestors reside between 2 miles and 3 miles of the Type IV landfill and are located closer to the nearby Type I landfill
- 1 requestor is employed or resides nearly 7 miles from the Type IV landfill and is located closer to the nearby Type I landfill

(vi) The hearing requestors are not potentially impacted by any site runoff. Only one of the hearing requestors appears to reside downgradient in the path of regional groundwater flow in the area (nearly 2 miles to the east). None of the hearing requestors appear to own any groundwater wells. Shallow groundwater on the west side of the landfill site flows to the west-northwest, away from all of the hearing requestors who are located east and northeast of the site (*see* Exhibit L (Groundwater Flow Patterns, West Side)); and deeper groundwater on the east side of the landfill site flows to the east, away from all of the hearing requestors who are located northeast of the site (*see* Exhibit L (Groundwater Flow, East Side)). Additionally, none of the hearing requestors reside downgradient in the path of surface water flow from the Fort Worth C&D Landfill site. The Fort Worth C&D Landfill is located on

the west side of Dick Price Road, at a lower elevation relative to property located on the east side of Dick Price Road; thus, all surface water drainage from the landfill site flows away from the hearing requestors who are all located east of Dick Price Road. *See* Exhibit M (Surface Water Flow Patterns). It is critical to note that only a single hearing requestor, who resides more than two miles northeast of the landfill site, expressed even a speculative concern about contaminated runoff potentially impacting groundwater or surface water and the Arlington Southwest Nature Preserve near her home, which is without any technical merit. *See* Exhibit A (Area Map) and Exhibit M (Surface Water Flow Pattern).

- (vii) The current permit amendment application is for a vertical (not a lateral) increase in the configuration of the Type IV landfill. Thus, the current footprint of the landfill will remain the same, and the facility is not moving closer to any of the hearing requestors. *See* Permit Application—Site Development Plan—for MSW Permit No. 1983C, Exhibit F (Technical Summary) and Exhibit B (Draft Permit). Additionally, the current permit requirements governing the size of the landfill’s “working face” (the confined area in which waste is offloaded and compacted before soil cover is applied) will generally remain the same, as will the other essential elements of the landfill’s site operating plan that control the day-to-day operations in conformance with TCEQ regulations. Therefore, other than extending the life of the landfill through a vertical capacity increase, the daily operations of the landfill will not materially change, and the hearing requestors will not be affected in any new or meaningfully different way by the proposed permit amendment.

Individual Hearing Requests

Hearing Requestors More than One-Half Mile Away from the Facility:

1. Jessica Monreal

Ms. Monreal’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Monreal’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Monreal did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Monreal did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Monreal’s request that the Commission “consider a hearing for Kennedale residents” is significantly different from the statement “[I/we]

request a contested case hearing,” which the Notice of Application issued March 8, 2016 by the Chief Clerk instructed hearing requestors to use, and does not conform to the language used in the rule (*see* § 55.201(d)(3)), therefore, its meaning is unclear. The context indicates that Ms. Monreal may have intended to request a public meeting or other type of hearing for the benefit of the community, rather than requesting a contested case hearing on her own behalf.

(ii) Ms. Monreal did not identify her personal justiciable interest affected by the application by including a specific written statement explaining her location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).

- Ms. Monreal states that she lives “off of Averett and Dickprice” (sic) and provides a mailing address in the City of Kennedale. The property appears to be located approximately 0.6 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 0.2 miles from the nearby Fort Worth SE Landfill. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
- Ms. Monreal does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. There is a general reference to streets, but without a measured or articulated distance and direction, it is not possible to properly determine whether Ms. Monreal is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.

(iii) Ms. Monreal did not explain how and why she will be adversely affected by IESI’s proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).

- Ms. Monreal complains about substantial and recurring odors, and requests a hearing on that basis, but does not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish, is the source of such odors, particularly when it is located farther away from her assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes. Ms. Monreal has not explained how and why the Fort Worth C&D Landfill will affect her in a manner that is sufficiently distinct from members of the general public. In fact, she specifically requests a hearing “for the Kennedale residents,” indicating that her concerns are those she presumes to be common to the general public.
- Ms. Monreal has not explained how she has a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; she has not explained how she “will suffer actual injury or economic

damage” as required by the Texas Health and Safety Code; and she has not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.

- (iv) Ms. Monreal did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)).
- Ms. Monreal states only that she is concerned about offsite odors. She has not alleged that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, or would actually result in landfill odors with sufficient frequency, intensity, duration and offensiveness (“FIDO”) to constitute an enforceable nuisance violation.
 - Ms. Monreal’s mere expression of a generalized concern about odors, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.
- (v) Ms. Monreal did not specify any of the ED’s responses to her comments that she disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
- Despite having received the June 20, 2016, letter from the TCEQ’s Chief Clerk describing the procedure for requesting a contested case hearing, Ms. Monreal did not file a document disputing any aspect of the ED’s decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” Ms. Monreal declined to do so.
 - The Chief Clerk’s letter provided Ms. Monreal with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Ms. Monreal did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Ms. Monreal does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a

legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) The interest Ms. Monreal claims regarding impacts to property values is not an interest protected by the law under which the application will be considered. Her concerns about property values are not relevant and material to consideration of this application and, therefore, cannot be the basis for “affected person” status.
- (ii) A reasonable relationship does not exist between the interest Ms. Monreal claims with respect to odors and the regulated activity. The primary interest Ms. Monreal claims is recurring and substantial odors, but she does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
- (iii) The regulated activity is not likely to impact the health or safety of Ms. Monreal.
 - As previously indicated, Ms. Monreal lives more than a half-mile from the Fort Worth C&D Landfill, which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of ED), and Exhibit D (RTC).
 - The substantial distance between Ms. Monreal’s residence and IESI’s TCEQ-regulated activities make it highly improbable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Ms. Monreal has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [her] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). Even if Ms. Monreal is determined to have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, she failed to establish how the injury would in the future be actual or imminent, fairly traceable to the

issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint, insofar as those concerns in relation to IESI's Type IV landfill are speculative and improbable.

Hearing Requestors More than One Mile Away from the Facility:

2. Liliane Garza

Ms. Garza's hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Garza's hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Garza did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Garza did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Garza requested a "hearing" but not a contested case hearing. Because she did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, it is unclear whether Ms. Garza intended to request a public meeting or other type of hearing rather than requesting a contested case hearing.
- (ii) Ms. Garza did not identify any personal justiciable interest affected by the application by including a specific written statement explaining her location and distance relative to IESI's proposed activity (*see* § 55.201(d)(2)).
 - Ms. Garza provides only a mailing address in the City of Kennedale for what we must assume to be the location of a permanent residence, but we are not entirely certain. The property appears to be located approximately 1.4 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 1.3 miles from the nearby Fort Worth SE Landfill. The presumed residence is located slightly closer to the nearby Fort Worth SE Landfill. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
 - Ms. Garza does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. Without a measured or articulated distance and direction, it is not possible to properly determine whether Ms. Garza is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.

- (iii) Ms. Garza did not explain how and why she will be adversely affected by IESI's proposed activity in a manner not common to members of the general public (see § 55.201(d)(2)).
- Ms. Garza does not identify in any respect how and why she will be adversely affected by IESI's permit amendment in a manner that is sufficiently distinct from members of the general public. Ms. Garza merely states that she requests a hearing.
 - Ms. Garza has not explained how she has a "personal justiciable interest," not common to members of the general public, as required by the Texas Water Code; she has not explained how she "will suffer actual injury or economic damage" as required by the Texas Health and Safety Code; and she has not set forth a "concrete and particularized injury in fact," not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.
- (iv) Ms. Garza did not list relevant and material disputed issues of fact that were raised during the public comment period (see § 55.201(d)(4)).
- (v) Ms. Garza did not specify any of the ED's responses to her comments that she disputes and the factual basis of the dispute or list any disputed issues of law or policy (see § 55.201(a) and (d)(4)).
- Despite having received the June 20 2016, letter from the TCEQ's Chief Clerk describing the procedure for requesting a contested case hearing, Ms. Garza did not file a document disputing any aspect of the ED's decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk's letter stated that, "you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy." Ms. Garza declined to do so.
 - The Chief Clerk's letter provided Ms. Garza with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director's decision. Ms. Garza did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Ms. Garza does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) Ms. Garza has not claimed or demonstrated a personal justiciable interest in the application. As previously indicated, Ms. Garza does not reside close to the Fort Worth C&D Landfill and requests a hearing without articulating any interests whatsoever.
- (ii) The regulated activity is not likely to impact the health or safety of Ms. Garza.
 - As previously indicated, Ms. Garza does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
 - The substantial distance between Ms. Garza’s presumed residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Ms. Garza has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). She has cited no actual injury or potential injury of any sort.

3. Lora Simpson

Ms. Simpson’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Simpson’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Simpson did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Simpson did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Simpson requests a “public hearing” and later urges the Commission to hold a “public meeting.” Because Ms. Simpson did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, and based upon the context of the request, it is unclear whether she intended to request a public meeting or a contested case hearing.
- (ii) Ms. Simpson did not identify her personal justiciable interest affected by the application by including a specific written statement explaining her location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).
 - Ms. Simpson provides only a mailing address in the City of Kennedale for what we must assume to be the location of a permanent residence, but we are not entirely certain. The presumed residence is located approximately 1.7 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 0.8 miles from the nearby Fort Worth SE Landfill – almost a mile closer. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
 - Ms. Simpson does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. Without a measured or articulated distance and direction, and it is not possible to properly determine whether Ms. Simpson is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.
- (iii) Ms. Simpson did not explain how and why she will be adversely affected by IESI’s proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).
 - Ms. Simpson complains about substantial and recurring odors, and requests a hearing on that basis, but does not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish is the source of such odors, particularly when it is located farther away from her assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes. Ms. Simpson has not explained how and why the Fort Worth C&D Landfill will affect her in a manner that is sufficiently distinct from members of the general public.

Second, Ms. Simpson does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) A reasonable relationship does not exist between the interest Ms. Simpson claims and the regulated activity. The primary interest Ms. Simpson claims is recurring and substantial odors, but she does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
- (ii) The regulated activity is not likely to impact the health or safety of Ms. Simpson.
 - As previously indicated, Ms. Simpson does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
 - The substantial distance between Ms. Simpson’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Ms. Simpson has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [her] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). Even if Ms. Simpson is determined to have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, she failed to establish how the injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her

complaint, insofar as those concerns in relation to IESI's Type IV landfill are speculative and improbable.

4. Cliff Uranga

Mr. Uranga's hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Mr. Uranga's hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Mr. Uranga did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Mr. Uranga did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Mr. Uranga simply writes "(r)equst hearing to object to expansion of landfill." Because Mr. Uranga did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, it is unclear whether he intended to request a contested case hearing on his own behalf.
- (ii) Mr. Uranga did not identify his personal justiciable interest affected by the application by including a specific written statement explaining his location and distance relative to IESI's proposed activity (*see* § 55.201(d)(2)).
 - Mr. Uranga provides only a mailing address in the City of Kennedale for what we must assume to be the location of a permanent residence, but we are not entirely certain. The presumed residence is located approximately 1.7 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 0.9 miles from the nearby Fort Worth SE Landfill. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
 - Mr. Uranga does not provide a distance from his location to the specific municipal solid waste landfill of which he complains. There is a general reference to being able to smell landfill odors "several miles away," but without a measured or articulated distance and direction, and it is not possible to properly determine whether Mr. Uranga is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.

- (iii) Mr. Uranga did not explain how and why he will be adversely affected by IESI's proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).
- Mr. Uranga complains about substantial and recurring odors, and requests a hearing on that basis, but does not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish is the source of such odors, particularly when it is located farther away from his assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes. Mr. Uranga has not explained how and why the Fort Worth C&D Landfill will affect him in a manner that is sufficiently distinct from members of the general public.
 - Mr. Uranga has not explained how he has a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; he has not explained how he “will suffer actual injury or economic damage” as required by the Texas Health and Safety Code; and he has not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on his complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.
- (iv) Mr. Uranga did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)).
- Mr. Uranga states only that he is concerned about offsite odors. He has not alleged that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, and would actually result in landfill odors with sufficient frequency, intensity, duration and offensiveness (“FIDO”) to constitute an enforceable nuisance violation.
 - Mr. Uranga's mere expression of a generalized concern, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.
- (v) Mr. Uranga did not specify any of the ED's responses to his comments that he disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
- Despite having received the June 20, 2016, letter from the TCEQ's Chief Clerk describing the procedure for requesting a contested case hearing, Mr. Uranga did not file a document disputing any aspect of the ED's decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.

- The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” Mr. Uranga declined to do so.
- The Chief Clerk’s letter provided Mr. Uranga with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Mr. Uranga did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Mr. Uranga does not qualify as an “affected person” because he has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) The interest Mr. Uranga claims regarding impacts to property values is not an interest protected by the law under which the application will be considered. His concerns about property values are not relevant and material to consideration of this application and therefore, cannot be the basis for “affected person” status.
- (ii) A reasonable relationship does not exist between the interest Mr. Uranga claims regarding odors and the regulated activity. The primary interest Mr. Uranga claims is recurring and substantial odors, but he does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
- (iii) The regulated activity is not likely to impact the health or safety of Mr. Uranga.
 - As previously indicated, Mr. Uranga does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all

applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).

- The substantial distance between Mr. Uranga’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact his health and safety in any manner. *See* Exhibit A (Area Map).

Third, Mr. Uranga has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013).

- (i) Mr. Uranga expresses only speculative concerns and has not established a “concrete and particularized injury in fact” as required by law.
- (ii) Even if Mr. Uranga is determined to have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, he failed to establish how the injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on his complaint, insofar as those concerns in relation to IESI’s Type IV landfill are speculative and improbable.

5. Chandra Moore:

Ms. Moore’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Moore’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Moore did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Moore did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Moore requests that a “public hearing be held.” Because Ms. Moore did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, and based upon the context of the request, it is unclear whether she intended to request a public meeting for the community or a contested case hearing on her own behalf.

- (ii) Ms. Moore did not identify her personal justiciable interest affected by the application by including a specific written statement explaining her location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).
- Ms. Moore provides only a mailing address in the City of Kennedale for what we must assume to be the location of a permanent residence, but we are not entirely certain. The property appears to be located approximately 1.9 miles east of the Fort Worth C&D Landfill, and is only slightly closer to the Fort Worth SE Landfill. *See* Exhibit A (Table of Hearing Requestors) and Exhibit B (Area Map).
 - Ms. Moore does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. Without a measured or articulated distance and direction it is not possible to properly determine whether Ms. Moore is referring to the Fort Worth C&D Landfill or to the Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.
- (iii) Ms. Moore did not explain how and why she will be adversely affected by IESI’s proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).
- Ms. Moore does not identify in any respect how and why she will be adversely affected by IESI’s permit amendment in a manner that is sufficiently distinct from members of the general public. She merely states that she is against the approval of the permit.
 - Ms. Moore has not explained how she has a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; she has not explained how he or she “will suffer actual injury or economic damage” as required by the Texas Health and Safety Code; and she has not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.
- (iv) Ms. Moore did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)). Ms. Moore’s mere expression of generalized opposition, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.

- (v) Ms. Moore did not specify any of the ED’s responses to her comments that she disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
- Despite having received the June 20, 2016, letter from the TCEQ’s Chief Clerk describing the procedure for requesting a contested case hearing, Ms. Moore did not file a document disputing any aspect of the ED’s decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” Ms. Moore declined to do so.
 - The Chief Clerk’s letter provided Ms. Moore with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Ms. Moore did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Ms. Moore does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) Ms. Moore has not claimed or demonstrated a personal justiciable interest in the application. As previously indicated, Ms. Moore does not reside close to the Fort Worth C&D Landfill and requests a hearing without articulating any interests whatsoever.
- (ii) The regulated activity is not likely to impact the health or safety of Ms. Moore.
- As previously indicated, Ms. Moore does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory

compliance history, and has been determined by the TCEQ's ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).

- The substantial distance between Ms. Moore's residence and IESI's TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Ms. Moore has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) "actual or imminent," (2) "fairly traceable to the issuance of the permit as proposed," and (3) "likely to be redressed by a favorable decision on [his] complaint." *See Tex. Comm'n on Envtl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). She has cited no injury or potential injury of any sort.

Hearing Requestors More than Two Miles Away from the Facility:

6. Joan Cauley

Ms. Cauley's hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Cauley's hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Cauley did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Cauley did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Cauley requests a "formal public hearing on this matter to allow input of residents." Because Ms. Cauley did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, and based upon the context of the request, it is unclear whether she intended to request a public meeting for the benefit of the community or a contested case hearing on her own behalf.
- (ii) Ms. Cauley did not identify her personal justiciable interest affected by the application by including a specific written statement explaining her location and distance relative to IESI's proposed activity (*see* § 55.201(d)(2)).
 - Ms. Cauley provides a mailing address in the City of Arlington for what we must assume to be the location of a permanent residence, but we are not entirely certain. The presumed residence appears to be located approximately 2.1 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only

1.1 miles from the nearby Fort Worth SE Landfill – a full mile closer. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).

- Ms. Cauley does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. There is a general reference to “2.6 miles from our neighborhood,” but without a measured or articulated distance and direction from Ms. Cauley’s property, and it is not possible to properly determine whether she is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.
- (iii) Ms. Cauley did not explain how and why she will be adversely affected by IESI’s proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).
- Ms. Cauley complains about substantial and recurring odors, describing her concern as having a “mountain of stinking garbage in our backyards,” and requests a hearing on that basis, but does not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish is the source of such odors, particularly when it is located farther away from her assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes, the types of wastes that she describes as the source of her concern. Ms. Cauley has not explained how and why the Fort Worth C&D Landfill will affect her in a manner that is sufficiently distinct from members of the general public.
 - Ms. Cauley also expresses general concerns about the “environmental impact in the surrounding area,” pollution of groundwater (the “water table”) and a nature preserve, and adverse impacts on property values, wildlife, and quality of life in the general area without explaining how and why the Fort Worth C&D Landfill will affect her in a manner that is sufficiently distinct from members of the general public.
 - Ms. Cauley has not explained how she has a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; she has not explained how she “will suffer actual injury or economic damage” as required by the Texas Health and Safety Code; and she has not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.

- (iv) Ms. Cauley did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)).
- Ms. Cauley states a concern about offsite odors. She has not alleged that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, and would actually result in landfill odors with sufficient frequency, intensity, duration and offensiveness (“FIDO”) to constitute an enforceable nuisance violation.
 - Likewise, Ms. Cauley has listed several other generalized concerns without alleging that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, and would actually result in any of the potential generalized impacts she lists.
 - Ms. Cauley’s mere expression of a generalized concern, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.
- (v) Ms. Cauley did not specify any of the ED’s responses to her comments that she disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
- Despite having received the June 20, 2016, letter from the TCEQ’s Chief Clerk describing the procedure for requesting a contested case hearing, Ms. Cauley did not file a document disputing any aspect of the ED’s decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” Ms. Cauley declined to do so.
 - The Chief Clerk’s letter provided Ms. Cauley with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Ms. Cauley did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Ms. Cauley does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) The interests Ms. Cauley claims are common to members of the general public and do not qualify as personal justiciable interests. As previously indicated, Ms. Cauley does not reside close to the Fort Worth C&D Landfill and articulates interests that are not relevant, material and personal.
- Ms. Cauley’s concerns about “environmental impact in the surrounding area” and “quality of life in our Arlington and Kennedale neighborhoods” are common to the general public and fail to articulate a justiciable issue under the Commission’s jurisdiction.
 - The interest Ms. Cauley claims regarding impacts to property values is not an interest protected by the law under which the application will be considered. Her concerns about property values are not relevant and material to consideration of this application and, therefore, cannot be the basis for “affected person” status.
 - In expressing her concern about potential impacts to groundwater, Ms. Cauley does not sufficiently distinguish herself from other members of the general public. She does not claim to own a groundwater well or otherwise depend on groundwater that is downgradient from the landfill or capable of being impacted. Likewise, Ms. Cauley’s concerns about an area nature preserve and wildlife are common to the general public.
- (ii) A reasonable relationship does not exist between the interests Ms. Cauley claims and the regulated activity.
- Ms. Cauley claims concerns about recurring and substantial odors, but she does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
 - An additional interest Ms. Cauley claims is runoff polluting groundwater and surface water and impacting a nature preserve several miles away from the Type IV Landfill; however, she fails to establish any reasonable relationship between those impacts and the activities being regulated, because the nature preserve is not downgradient of the groundwater and surface water flow paths from the landfill site. *See* Exhibit L (Groundwater Flow Patterns) and Exhibit M (Surface Water Flow Patterns). In fact, the address given by Ms. Cauley, near the nature preserve, is at a ground elevation of 620 feet, while the Fort Worth C&D Landfill is at 582 feet over two miles away (*See* Exhibit M, Surface Water Flow Patterns). Ms. Cauley provides no basis for her belief that runoff from the landfill site could impact any ground or surface water resource

or the nature preserve in her area, miles away and upgradient from the landfill site.

(iii) The regulated activity is not likely to impact the health or safety of Ms. Cauley.

- As previously indicated, Ms. Cauley does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
- Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ's ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
- The substantial distance between Ms. Cauley's residence and IESI's TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

(iv) The regulated activity is not likely to impact the use of natural resources by Ms. Cauley.

- Ms. Cauley cites concerns about a nature preserve, but does not describe the manner in which she actually utilizes the preserve or how those uses could be impacted by the application; therefore, she has failed to state a personal justiciable issue. Regardless, as previously indicated, the location of the Fort Worth C&D Landfill, the nature of the Type IV disposal activities, and the relevant groundwater and surface water flow paths make it a virtual impossibility that the regulated activities could negatively affect the specific natural resources cited (*i.e.*, the Arlington Southwest Nature Preserve). *See* Exhibit L (Groundwater Flow Patterns), Exhibit M (Surface Water Flow Patterns), and Exhibit A (Area Map).
- Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and natural resources. *See* Exhibit F (Technical Summary), Exhibit E (Decision of the ED), and Exhibit D (RTC).

Third, Ms. Cauley has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013).

- (i) Ms. Cauley expresses only speculative concerns and has not established a “concrete and particularized injury in fact” as required by law. Ms. Cauley also failed to describe any injury that is not common to the general public in the area.
- (ii) Even if Ms. Cauley is determined to have described a concrete and particularized injury in fact, not common to the general public, she failed to establish how any injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint, insofar as those concerns in relation to IESI’s Type IV landfill are speculative and improbable.

7. Terry Leese

Terry Leese’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Leese’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Leese did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Leese did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)).
- (ii) Leese did not identify his or her personal justiciable interest affected by the application by including a specific written statement explaining location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).
 - Leese provides a mailing address in the City of Arlington. We presume this address to be the location of the home referenced in Leese’s comment. The presumed residence is located approximately 2.3 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 1.4 miles from the nearby Fort Worth SE Landfill – almost a mile closer. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
 - Leese does not provide a distance from his or her location to the specific municipal solid waste landfill of which he or she complains. The request states that he or she is a homeowner “a few miles east of the landfill,” but

without a measured or articulated distance and direction, and it is not possible to properly determine whether Leese is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.

(iii) Leese did not explain how and why he or she will be adversely affected by IESI's proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).

- Leese complains about substantial and recurring odors, and requests a hearing on that basis, but does not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish is the source of such odors, particularly when it is located farther away from his or her assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes. Leese has not explained how and why the Fort Worth C&D Landfill will affect him or her in a manner that is sufficiently distinct from members of the general public.
- Leese has not explained how he or she has a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; Leese has not explained how he or she “will suffer actual injury or economic damage” as required by the Texas Health and Safety Code; and Leese has not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on his or her complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.

(iv) Leese did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)).

- Leese states he or she is concerned about offsite odors. Leese has not alleged that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, and would actually result in landfill odors with sufficient frequency, intensity, duration and offensiveness (“FIDO”) to constitute an enforceable nuisance violation.
- Leese's mere expression of a generalized concern, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.

(v) Leese did not specify any of the ED's responses to his or her comments that he or she disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).

- Despite having received the June 20, 2016, letter from the TCEQ’s Chief Clerk describing the procedure for requesting a contested case hearing, Leese did not file a document disputing any aspect of the ED’s decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” Leese declined to do so.
 - The Chief Clerk’s letter provided Leese with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Leese did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Leese does not qualify as an “affected person” because he or she has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) The interests Leese claims are common to members of the general public and do not qualify as a personal justiciable interests.
 - As previously indicated, Leese does not reside close to the Fort Worth C&D Landfill and articulates interests that are not relevant, material and personal.
 - The interest Leese claims regarding impacts to property values is not an interest protected by the law under which the application will be considered. Concerns about property values are not relevant and material to consideration of this application and, therefore, cannot be the basis for “affected person” status.
 - Leese’s concern about “quality of life” is common to the general public and too broad to form the basis of a justiciable issue under the Commission’s jurisdiction.
- (ii) A reasonable relationship does not exist between the interests Leese claims and the regulated activity. The primary interest Leese claims is recurring and substantial odors, but he or she does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit

amendment. Similar to other requestors, Leese refers to “add(ing) more garbage to their site.” Because the Fort Worth C&D Landfill does not accept garbage, but the closer Fort Worth SE Landfill does, it appears that Leese is referring to the landfill that is not the subject of this amendment application.

- (iii) The regulated activity is not likely to impact the health or safety of Leese.
- As previously indicated, Leese does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
 - The substantial distance between Leese’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact his or her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Leese has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013).

- (i) Leese expresses only speculative concerns and has not established a “concrete and particularized injury in fact” as required by law. Leese also failed to describe any injury that is not common to the general public in the area.
- (ii) Even if Leese is determined to have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, he or she failed to establish how the injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on his or her complaint, insofar as those concerns in relation to IESI’s Type IV landfill are speculative and improbable.

8. Susan Thomas

Ms. Thomas's hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Thomas's hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Thomas did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Thomas did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Thomas states that she would “like to propose a contested hearing for the residents of Kennedale to voice their concerns....” Because Ms. Thomas did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, and based upon the context of the request, it is unclear whether she intended to request a public meeting for the benefit of the community or a contested case hearing on her own behalf.
- (ii) Ms. Thomas did not identify her personal justiciable interest affected by the application by including a specific written statement explaining his location and distance relative to IESI's proposed activity (*see* § 55.201(d)(2)).
 - Ms. Thomas provides only a mailing address in the City of Kennedale for what we must assume to be the location of a permanent residence, but we are not entirely certain. The presumed residence appears to be located approximately 2.4 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 2.2 miles from the nearby Fort Worth SE Landfill. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
 - Ms. Thomas does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. Without a measured or articulated distance and direction, it is not possible to properly determine whether Ms. Thomas is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.
- (iii) Ms. Thomas did not explain how and why she will be adversely affected by IESI's proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).

extent possible, any disputed issues of law or policy.” Ms. Thomas declined to do so.

- The Chief Clerk’s letter provided Ms. Thomas with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Ms. Thomas did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Ms. Thomas does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) The interests Ms. Thomas claims are common to members of the general public and do not qualify as a personal justiciable interests. As previously indicated, Ms. Thomas does not reside close to the Fort Worth C&D Landfill and articulates interests that are not relevant, material and personal, including the “price of water consumption,” and community growth plans.
- (ii) A reasonable relationship does not exist between the interest Ms. Thomas claims and the regulated activity. The primary interest Ms. Thomas claims is recurring and substantial odors, but she does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
- (iii) The regulated activity is not likely to impact the health or safety of Ms. Thomas.
 - As previously indicated, Ms. Thomas does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).

- The substantial distance between Ms. Thomas’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Ms. Thomas has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Envtl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). Even if Ms. Thomas is determined to have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, she failed to establish how the injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint, insofar as those concerns in relation to IESI’s Type IV landfill are speculative and improbable.

9. Shiela and Russ Fiorella

The Fiorellas’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). The Fiorellas’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, the Fiorellas did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) The Fiorellas did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Twice in their comment, the Fiorellas request a “public hearing.” Because they did not use the language included in the rule (*see* § 55.201(d)(3)) and provided in the Notice of Application issued March 8, 2016 by the Chief Clerk, it is unclear whether they intended to request a public meeting or a contested case hearing.
- (ii) The Fiorellas did not identify their personal justiciable interest affected by the application by including a specific written statement explaining their location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).
 - The Fiorellas provide a mailing address in the City of Arlington. We presume this to be the address of their house, which is referenced in their comment. The presumed residence appears to be located approximately 2.8 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 1.7 miles

from the nearby Fort Worth SE Landfill – more than a mile closer. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).

- The Fiorellas do not provide a distance from their location to the specific municipal solid waste landfill of which they complain. Without a measured or articulated distance and direction, it is not possible to properly determine whether the Fiorellas intend to refer to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.
- (iii) The Fiorellas did not explain how and why they will be adversely affected by IESI's proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).
- The Fiorellas complain about substantial and recurring odors, and request a hearing on that basis, but do not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish is the source of such odors, particularly when it is located farther away from their assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes. The Fiorellas have not explained how and why the Fort Worth C&D Landfill will affect them in a manner that is sufficiently distinct from members of the general public.
 - The Fiorellas have not explained how they have a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; the Fiorellas have not explained how they “will suffer actual injury or economic damage” as required by the Texas Health and Safety Code; and the Fiorellas have not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on their complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.
- (iv) The Fiorellas did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)).
- The Fiorellas state that they are concerned about offsite odors, but have not alleged that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, and would actually result in landfill odors with sufficient frequency, intensity, duration and offensiveness (“FIDO”) to constitute an enforceable nuisance violation.

- The Fiorellas’s mere expression of a generalized concern, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.
- (v) The Fiorellas did not specify any of the ED’s responses to their comments that they dispute and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
 - Despite having received the June 20, 2016, letter from the TCEQ’s Chief Clerk describing the procedure for requesting a contested case hearing, the Fiorellas did not file a document disputing any aspect of the ED’s decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” The Fiorellas declined to do so.
 - The Chief Clerk’s letter provided the Fiorellas with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. The Fiorellas did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, the Fiorellas do not qualify as “affected persons” because they have not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) A reasonable relationship does not exist between the interest the Fiorellas claim and the regulated activity. The interest the Fiorellas claim is recurring and substantial odors, but they do not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually reside closer to the Fort Worth SE Landfill (a Type I disposal facility), and fail to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
- (ii) The regulated activity is not likely to impact the health or safety of the Fiorellas.
 - As previously indicated, the Fiorellas do not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt

small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).

- Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
- The substantial distance between the Fiorellas’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact their health and safety in any manner. *See* Exhibit A (Area Map).

Third, the Fiorellas have failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). Even if the Commission determines that the Fiorellas have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, they failed to establish how the injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on their complaint, insofar as those concerns in relation to IESI’s Type IV landfill are speculative and improbable.

10. Babette Birchett

Ms. Birchett’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Ms. Birchett’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Ms. Birchett did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Ms. Birchett did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Ms. Birchett’s comment states that “(t)here needs to be a public hearing so that people can find out what is going on and can voice their concerns.” This is significantly different from the statement “[I/we] request a

contested case hearing,” which the Notice of Application issued March 8, 2016 by the Chief Clerk instructed hearing requestors to use, and does not conform to the language used in the rule (*see* § 55.201(d)(3)), therefore, its meaning is unclear. The description Ms. Birchett provides indicates that she may have intended to request a public meeting for the benefit of the community, rather than requesting a contested case hearing on her own behalf.

(ii) Ms. Birchett did not identify her personal justiciable interest affected by the application by including a specific written statement explaining his location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).

- Ms. Birchett provides a mailing address in the City of Arlington. We presume this to be the address for her “home in Arlington,” as referenced in her comment. The presumed residence appears to be located approximately 2.8 miles northeast of the Fort Worth C&D Landfill, yet it appears to be only 1.8 miles from the nearby Fort Worth SE Landfill – a full mile closer. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).
- Ms. Birchett does not provide a distance from her location to the specific municipal solid waste landfill of which she complains. There is a general reference to the ability to see the landfill “sticking up over the trees from the corner of my neighborhood (Bowman Spring Dr. @ I-20),” but without a measured or articulated distance and direction, and it is not possible to properly determine whether Ms. Birchett is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.

(iii) Ms. Birchett did not explain how and why she will be adversely affected by IESI’s proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)).

- Ms. Birchett complains about substantial and recurring odors, and requests a hearing on that basis, but does not explain how and why the Type IV landfill, which accepts brush, construction/demolition waste, and rubbish is the source of such odors, particularly when it is located farther away from her assumed residence than the closer Type I landfill that accepts household garbage and putrescible wastes. Ms. Birchett has not explained how and why the Fort Worth C&D Landfill will affect her in a manner that is sufficiently distinct from members of the general public.
- Ms. Birchett has not explained how she has a “personal justiciable interest,” not common to members of the general public, as required by the Texas Water Code; Ms. Birchett has not explained how she “will suffer actual injury or

economic damage” as required by the Texas Health and Safety Code; and Ms. Birchett has not set forth a “concrete and particularized injury in fact,” not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.

- (iv) Ms. Birchett did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)).
- Ms. Birchett states only that she is concerned about offsite odors. Ms. Birchett has not alleged that the design and operation of the Type IV landfill as amended are deficient in any respect whatsoever, and would actually result in landfill odors with sufficient frequency, intensity, duration and offensiveness (“FIDO”) to constitute an enforceable nuisance violation.
 - Ms. Birchett’s mere expression of a generalized concern, without any affirmative allegation of an application deficiency, is not a listing of “disputed issues of fact” sufficient to support a hearing request.
- (v) Ms. Birchett did not specify any of the ED’s responses to her comments that she disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
- Despite having received the June 20, 2016, letter from the TCEQ’s Chief Clerk describing the procedure for requesting a contested case hearing, Ms. Birchett did not file a document disputing any aspect of the ED’s decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk’s letter stated that, “you should: 1) specify any of the executive director’s responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.” Ms. Birchett declined to do so.
 - The Chief Clerk’s letter provided Ms. Birchett with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Ms. Birchett did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Ms. Birchett does not qualify as an “affected person” because she has not identified a personal justiciable interest, not common to the general public, that is related to a

legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) Many of the interests Ms. Birchett claims are common to members of the general public and do not qualify as personal justiciable interests.
 - As previously indicated, Ms. Birchett does not reside close to the Fort Worth C&D Landfill and articulates interests that are not relevant, material and personal (*e.g.*, area property values and general quality of life considerations).
 - Ms. Birchett’s concern that a landfill can be seen from the corner of her neighborhood near I-20 does not sufficiently distinguish her from other members of the general public.
- (ii) A reasonable relationship does not exist between Ms. Birchett’s concerns about odor and the regulated activity. The primary interest Ms. Birchett claims is recurring and substantial odors, but she does not reside close to the Fort Worth C&D Landfill (a Type IV disposal facility), actually resides closer to the Fort Worth SE Landfill (a Type I disposal facility), and fails to establish a reasonable relationship between the actual odors being experienced and the activities being regulated by this particular permit amendment.
- (iii) The regulated activity is not likely to impact the health or safety of Ms. Birchett.
 - As previously indicated, Ms. Birchett does not reside close to the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
 - The substantial distance between Ms. Birchett’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact her health and safety in any manner. *See* Exhibit A (Area Map).

Third, Ms. Birchett has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the

issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Envtl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). Even if Ms. Birchett is determined to have described a concrete and particularized injury in fact, not common to the general public, arising from landfill odors in the past, she failed to establish how the injury would in the future be actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on her complaint, insofar as those concerns in relation to IESI’s Type IV landfill are speculative and improbable.

11. Randall Kahan

Mr. Kahan’s hearing request does not meet the requirements of 30 TAC § 55.211(c)(2) and should be denied by the Commissioners under § 55.211(b)(2) (relating to *Commission Action on Requests for Reconsideration and Contested Case Hearing*). Mr. Kahan’s hearing request is substantially deficient in several respects including, but not limited to, the following:

First, Mr. Kahan did not substantially comply with the requirements of § 55.201(d) (relating to *Requests for Reconsideration or Contested Case Hearing*) regarding the form and content of a hearing request because:

- (i) Mr. Kahan did not provide all of the required identifying and contact information (*see* § 55.201(d)(1)) and did not specifically and formally request a contested case hearing (*see* § 55.201(d)(3)). Mr. Kahan’s request that the TCEQ “conduct a public hearing on this matter to consider the objections of residents of Tarrant County” is significantly different from the statement “[I/we] request a contested case hearing,” which the Notice of Application issued March 8, 2016 by the Chief Clerk instructed hearing requestors to use, and does not conform to the language used in the rule (*see* § 55.201(d)(3)), therefore, its meaning is unclear. The context indicates that Mr. Kahan may have intended to request a public meeting or other type of hearing for the benefit of the community, rather than requesting a contested case hearing on his own behalf.
- (ii) Mr. Kahan did not identify his personal justiciable interest affected by the application by including a specific written statement explaining his location and distance relative to IESI’s proposed activity (*see* § 55.201(d)(2)).
 - Mr. Kahan provides only a mailing address in the City of Pantego. It is unclear whether this is a home, business, or other type of address; however, the address does not appear to be residential based upon an online street view search. The address appears to be located approximately 6.9 miles northeast of the Fort Worth C&D Landfill and 6.0 miles from the Fort Worth SE Landfill – almost a mile closer. *See* Exhibit H (Table of Hearing Requestors) and Exhibit A (Area Map).

- Mr. Kahan does not provide a distance from his location to the specific municipal solid waste landfill of which he complains. Without a measured or articulated distance and direction, it is not possible to properly determine whether Mr. Kahan is referring to the Fort Worth C&D Landfill or to the closer Fort Worth SE Landfill. The failure to provide this requested information creates confusion and subjects TCEQ and the applicant to potentially unnecessary permit proceedings.
- (iii) Mr. Kahan did not explain how and why he will be adversely affected by IESI's proposed activity in a manner not common to members of the general public (*see* § 55.201(d)(2)). Mr. Kahan has raised general concerns about the proximity of the (existing) landfill site to Kennedale Middle School, residential areas, and the Southwest Arlington Nature Preserve. However, Mr. Kahan has not explained how he has a "personal justiciable interest," not common to members of the general public, as required by the Texas Water Code; Mr. Kahan has not explained how he "will suffer actual injury or economic damage" as required by the Texas Health and Safety Code; and Mr. Kahan has not set forth a "concrete and particularized injury in fact," not common to the general public, that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on his complaint as required by recent judicial opinions of the Austin Court of Appeals and the Texas Supreme Court.
- (iv) Mr. Kahan did not list relevant and material disputed issues of fact that were raised during the public comment period (*see* § 55.201(d)(4)). Mr. Kahan's mere expression of generalized concern regarding the location of the landfill, without any affirmative allegation of an application deficiency, is not a listing of "disputed issues of fact" sufficient to support a hearing request.
- (v) Mr. Kahan did not specify any of the ED's responses to his comments that he disputes and the factual basis of the dispute or list any disputed issues of law or policy (*see* § 55.201(a) and (d)(4)).
 - Despite having received the June 20, 2016, letter from the TCEQ's Chief Clerk describing the procedure for requesting a contested case hearing, Mr. Kahan did not file a document disputing any aspect of the ED's decision that the permit application meets the requirements of applicable law and the factual basis for such dispute.
 - The Chief Clerk's letter stated that, "you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy." Mr. Kahan declined to do so.

- The Chief Clerk’s letter provided Mr. Kahan with instructions on two distinct options: 1) how to request a contested case hearing; and 2) how to request reconsideration of the Executive Director’s decision. Mr. Kahan did not request either option within 30 calendar days after the Chief Clerk mailed the letter.

Second, Mr. Kahan does not qualify as an “affected person” because he has not identified a personal justiciable interest, not common to the general public, that is related to a legal right, duty, privilege, power, or economic interest affected by the application, as required by 30 TAC § 55.203(a) (relating to *Determination of Affected Person*). Specifically:

- (i) The interest Mr. Kahan claims is common to members of the general public and does not qualify as a personal justiciable interest. As previously indicated, Mr. Kahan does not reside close to the Fort Worth C&D Landfill and his generalized concerns about the landfill’s location do not distinguish him from other members of the general public.
- (ii) The regulated activity is not likely to impact the health or safety of Mr. Kahan.
 - As previously indicated, Mr. Kahan works/lives almost 7 miles from the Fort Worth C&D Landfill which disposes of brush, construction-demolition waste, and rubbish, and does not accept any household garbage, conditionally exempt small quantity generator waste, or putrescible wastes. *See* Exhibit A (Area Map) and Exhibit B (Draft Permit).
 - Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and public health. *See* Exhibit F (Technical Summary) and Exhibit B (Draft Permit). The facility has been operating since 1997, has a satisfactory compliance history, and has been determined by the TCEQ’s ED to meet all applicable regulatory criteria. *See* Exhibit I (Compliance History Report), Exhibit E (Decision of the ED), and Exhibit D (RTC).
 - The substantial distance between Mr. Kahan’s residence and IESI’s TCEQ-regulated activities make it inconceivable that the Type IV landfill as amended could impact his health and safety in any manner. *See* Exhibit A (Area Map).
- (iii) The regulated activity is not likely to impact the use of natural resources by Mr. Kahan.
 - Mr. Kahan cites concerns about the proximity of the landfill to the Arlington Southwest Nature Preserve, but does not describe the manner in which he actually utilizes the preserve or how those uses could be impacted by the

application in a way not common to the general public; therefore, he has failed to state a personal justiciable issue. Regardless, as previously indicated, the location of the Fort Worth C&D Landfill, the nature of the Type IV disposal activities, and the relevant groundwater and surface water flow paths make it a virtual impossibility that the regulated activities could negatively affect the specific natural resources cited (*i.e.*, the Arlington Southwest Nature Preserve). *See* Exhibit L (Groundwater Flow Patterns), Exhibit M (Surface Water Flow Patterns), and Exhibit A (Area Map).

- Consistent with state municipal solid waste laws and regulations, the Fort Worth C&D Landfill meets stringent design, construction and operating criteria established by the TCEQ for the protection of groundwater, surface water and natural resources. *See* Exhibit F (Technical Summary), Exhibit E (Decision of the ED), and Exhibit D (RTC).

Third, Mr. Kahan has failed to establish a concrete and particularized injury in fact, not common to the general public, that is (1) “actual or imminent,” (2) “fairly traceable to the issuance of the permit as proposed,” and (3) “likely to be redressed by a favorable decision on [his] complaint.” *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013). Mr. Kahan expresses only general concerns and has not established a “concrete and particularized injury in fact” as required by law. Mr. Kahan also failed to describe any injury that is not common to the general public in the area.

V. REQUEST FOR RELIEF

Based on the foregoing, IESI respectfully requests the Commissioners deny all of the hearing requests and approve the pending application and draft permit based on: (i) their failure to comply with the agency’s regulations at 30 TAC § 55.201 (relating to *Requests for Reconsideration or Contested Case Hearing*); (ii) their failure to demonstrate they are “persons affected” as defined by the TCEQ’s enabling statutes and rules including Tex. Water Code § 5.115(a) (relating to *Persons Affected in Commission Hearings*), Tex. Health and Safety Code § 361.003(24) (relating to *Definitions; Person Affected*) and 30 TAC § 55.203(c) (relating to *Determination of Affected Person*); and (iii) their failure to establish a concrete and particularized injury in fact that is actual or imminent, fairly traceable to the issuance of the permit as proposed, and likely to be redressed by a favorable decision on his complaint. *Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 417 (Tex. 2013).

VI. ALTERNATIVE PLEADING – HEARING LOCATION, DURATION, AND ISSUES

Notwithstanding the foregoing, should the Commissioners decide, over IESI’s objections, that the sole hearing requestor who appears to reside within one-mile of the Fort Worth C&D Landfill is actually an “affected person” who has complied with the agency’s requirements for requesting a contested case hearing and raised disputed issues of fact that are relevant and

material to the pending application and permit, IESI alternatively recommends the Commissioners find and require in its *Interim Order* each the following:

1. None of the other persons requesting a contested case hearing qualify as an affected person and all other hearing requests are expressly denied;
2. The contested case hearing shall be conducted in Austin, Texas, at the State Office of Administrative Hearings (“SOAH”);
3. The contested case hearing process shall be completed by SOAH within six (6) months from the date of the preliminary hearing; and
4. The contested case hearing shall be limited to the following issues:
 - a. Whether the proposed Site Operating Plan for the Fort Worth C&D Landfill contains an Odor Management Plan that is reasonably sufficient to identify, address, and control odors or sources of odor at the landfill, if any; and
 - b. What additional provisions, if any, are necessary in the Odor Management Plan to ensure it is reasonably sufficient to identify, address, and control odors or sources of odor at the landfill, if any.

Respectfully submitted,

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ATTORNEYS FOR THE APPLICANT
IESI TX LANDFILL LP

CERTIFICATE OF SERVICE

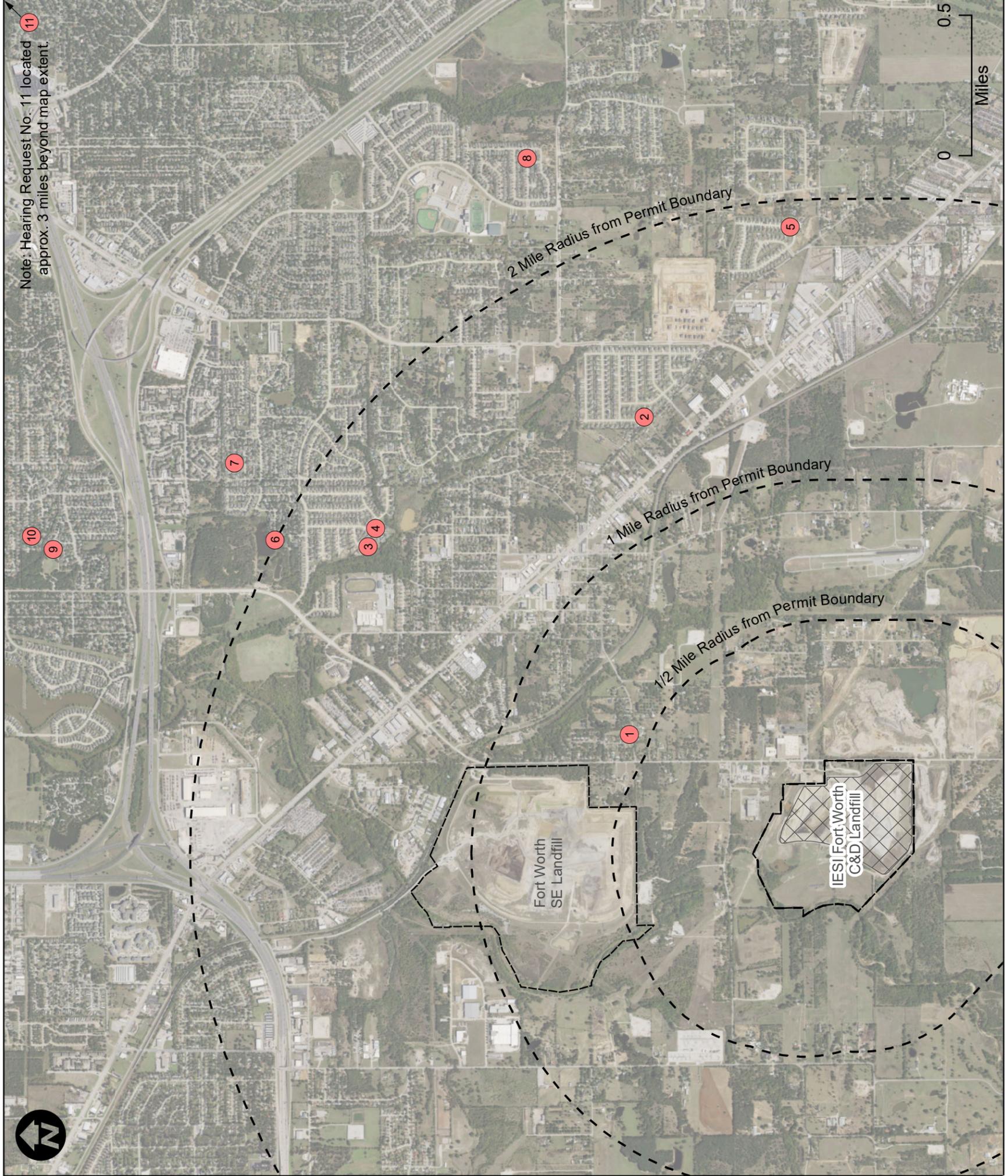
I hereby certify that the original and seven (7) copies of the *Applicant's Response to Hearing Request* were filed, electronically and via hand delivery, with the TCEQ's Office of Chief Clerk and a true and correct copy was served on the Executive Director, the Public Interest Counsel, and each of the hearing requestors on the attached mailing list by first class mail on the 12th day of September, 2016.



John J. Vay

EXHIBIT A

Area Map



Legend

- Hearing Requests (See Table A)
- Permit Boundary
- Limit of Waste

Table A. List of Hearing Requests

No.	Name	Address	Distance to:	
			IESI Fort Worth C&D Landfill	Fort Worth SE Landfill
1	Jessica Monreal	700 Averett Rd Kennedale, Texas 76060	0.6	0.2
2	Liliane Garza	633 Winterwood Dr Kennedale, Texas 76060	1.4	1.3
3	Lora Simpson	400 Fountain Ct Kennedale, Texas 76060	1.7	0.8
4	Cliff Uranga	904 Bell Oak Dr Kennedale, Texas 76060	1.7	0.9
5	Chandra Moore	1061 Cydnie St Kennedale, Texas 76060	1.9	2.0
6	Joan Cauley	5224 Saratoga Ln Arlington, Texas 76017	2.1	1.1
7	Terry Leese	6802 Landover Hills Ln Arlington, Texas 76017	2.3	1.4
8	Susan Thomas	1125 Parkview Trail Kennedale, Texas 76060	2.4	2.2
9	Sheila and Russ Fiorella	7124 Layla Rd Arlington, Texas 76016	2.8	1.7
10	Babette Birchett	7030 Escondido Dr Arlington, Texas 76016	2.8	1.8
11	Randall Kahan	3337 W Pioneer Pkwy Pantego, Texas 76013	6.9	6.0

Area Map

EXHIBIT B

Draft Permit

Texas Commission on Environmental Quality



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

MSW Permit No.: 1983C (DRAFT)

Name of Site Operator/Permittee: IESI Tx Landfill LP

Operator: IESI Tx Landfill LP

Property Owner: IESI Tx Landfill LP

Facility Name: IESI Fort Worth C&D Landfill

Facility Address: 4144 Dick Price Road
Fort Worth, Texas 76140

Classification of Site: Type IV Municipal Solid Waste Management Facility

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

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

Issued Date:

DRAFT

For the Commission

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DRAFT

I. Size and Location of Facility

- A. The IESI Fort Worth C&D Landfill is located in Tarrant County, Texas, approximately 15 miles southeast of downtown Fort Worth, and approximately 2.4 miles south of IH-20 and 5 miles east of IH-35W. The facility contains 151.73 acres.
- B. The legal description is contained in Part I of the application which is incorporated by reference in Attachment A of this permit.
- C. Coordinates and Elevation of Site Permanent Benchmark:
- | | |
|------------|--|
| Latitude: | 32° 37' 51" N |
| Longitude: | 97° 14' 04" W |
| Elevation: | 654.77 feet above mean sea level (msl) |

II. Facilities and Operations Authorized

A. Days and Hours of Operation

The waste acceptance hours for the receipt and disposal of waste at this facility shall be any time between the hours of 6:00 a.m. to 7:00 p.m., seven days a week. The operating hours at this landfill which include the use of heavy equipment shall be any time between the hours of 5:00 a.m. through 9:00 p.m., seven days a week.

The operator shall post the actual waste acceptance and operating hours on the site sign.

B. Wastes Authorized at This Facility

The permittee is authorized to dispose of the types of waste identified in 30 Texas Administrative Code (TAC) Section (§) 330.5(a)(2), §330.171(a) and §330.173(i)-(j), including: brush; construction waste; demolition waste; rubbish; inert material (both natural and man-made); mechanical shredding waste, as allowed under the Health and Safety code §361.019(b); trash; yard waste that is free of putrescible and household waste; scrap tires; special waste that is consistent with the limitations established in 30 TAC §330.5(a)(2) and the waste acceptance plan required by §330.61(b); Class 2 nonhazardous industrial solid waste that is consistent with the limitations established in 30 TAC §330.5(a)(2) and the waste acceptance plan required by §330.61(b); and Class 3 nonhazardous industrial solid waste. The types of wastes and their acceptances shall be limited to and in accordance with the conditions included in Section 5.5 of Part IV of the permit application. Wood, clean yard trimmings, and other feedstock/wastes as identified in Appendix IVB of the Site Operating Plan contained in Part IV of the permit application may be accepted for the existing composting operation within the landfill permit boundary.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 TAC §330.15(e). The permittee shall not accept putrescible waste, household waste, special waste as defined in 30 TAC §330.3(148)(except those special wastes authorized under Section II.B of this permit), those waste streams that are expressly

prohibited by 30 Texas Administrative Code (TAC) Chapter 330, Class 1 nonhazardous industrial solid waste, hazardous waste, liquid wastes, and any other waste listed as prohibited in Section 5.5 of the Site Operating Plan.

D. Waste Acceptance Rate

Solid waste may be accepted for disposal at this facility at the initial rate of approximately 364,344 tons per year (Year 2015) and increasing over time to a maximum acceptance rate of approximately 413,560 tons per year (Year 2035) (approximately 1,231 tons per day and 1,397 tons per day, respectively, based on assumed 296 normal working days per year of operation). These estimated waste acceptance rates are not a limiting parameter to this permit; however, if the actual annual waste acceptance rate exceeds the rate estimated in the landfill permit application and the waste increase is not due to a temporary occurrence, the owner or operator shall file an application to modify the permit application pursuant to 30 TAC §330.125(h). The actual yearly waste disposal acceptance rate is a rolling quantity based on the sum of the previous four quarters of waste acceptance.

E. Waste Volume Available for Disposal

The total waste disposal capacity of the landfill (including waste and weekly cover) is 18.424 million cubic yards.

F. Facilities Authorized

The permittee is authorized to operate a Type IV municipal solid waste landfill consisting of a total permit boundary of 151.73 acres and a waste disposal footprint of 77.7 acres. The permittee is also authorized to operate the following recycling-related storage and processing operations within the landfill permit boundary: a large items/white goods unloading and storage area; a construction and demolition (C&D) recyclable sorting area; and a wood recycling area. The permittee is also authorized to operate a composting operation within the landfill permit boundary.

All waste disposal activities authorized by this permit are to be confined to the Type IV landfill which shall include access roads, scales, gatehouse, dikes, mechanically-stabilized earth (MSE) berms, other earthen berms, temporary drainage channels, permanent drainage structures, landfill gas management system, contaminated water management system, final cover, groundwater monitoring system, liner system, and other improvements.

The recycling-related storage and processing activities are to be confined to the locations identified in Part III, Site Development Plan, Attachment 1, General Facility Design. The composting activities authorized by this permit are to be confined to the locations identified in Appendix IVB of the Site Operating Plan.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with the rules in 30 TAC Chapters 305 and 330.

III. Facility Design, Construction, and Operation

- A. Facility design, construction, operation and maintenance must comply with the provisions of this permit; Commission Rules, including but not limited to 30 TAC Chapter 330; special provisions contained in this permit; and Parts I through IV of the permit application incorporated by reference in Attachment A of this permit; and any amendments, corrections, and modifications incorporated by reference in Attachment B. The facility construction and operation shall be managed in a manner that protects human health and the environment.
- B. The entire waste management facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the point of compliance as defined in 30 TAC §330.3 and to prevent inundation or discharge from the areas surrounding the facility components. Each receiving, storage, processing, and disposal area shall have a containment system that will collect spills and incidental precipitation in such a manner as to:
1. Preclude the release of any contaminated runoff, spills, or precipitation;
 2. Prevent washout of any waste by a 100-year frequency flood; and
 3. Prevent run-on into the disposal areas from off-site areas.
- C. The site shall be designed and operated so as not to cause a violation of:
1. The requirements of §26.121 of the Texas Water Code;
 2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements of §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
 3. The requirements under §404 of the Federal Clean Water Act, as amended; and
 4. Any requirement of an area-wide or statewide water quality management plan that has been approved under §208 or §319 of the Federal Clean Water Act, as amended.
- D. Management of Contaminated Water, Leachate, and Gas Condensate
1. All contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §§ 330.207, 330.305(g), 330.333, and the permit application incorporated by reference in Part III, Attachment A of this permit.
 2. Contaminated surface water and groundwater shall not be placed in or on the landfill cells.
- E. Liner System
1. A liner system pursuant to 30 TAC §330.331 must be installed in all cells. The liner system shall be constructed in accordance with the rules and the specifications in Part III, Attachment 3C, Liner Quality Control Plan of the application, and must consist of one of the two approved options: 4-ft thick

in-situ clay layer or 3-ft thick re-compacted clay liner with a hydraulic conductivity of no greater than 1×10^{-7} cm/second overlain by a 1-ft thick protective cover layer. The liner system shall be installed over the entire bottom and sidewalls as described in Part III, Site Development Plan, Attachment 3C, Liner Quality Control Plan, and Attachment 3A, Landfill Design Drawings of the application.

2. The elevation of deepest excavation at the landfill disposal area is 550 feet above msl (if in-situ liner is used) or 546 feet above msl (if constructed liner is used), and is located at the locations shown in Part III, Attachment 3A, Landfill Design Drawings of the application.
3. The elevations of the bottom of the excavations within the waste disposal areas shall be as shown in Part III, Attachment 3A, Landfill Design Drawings of the application.

F. Final Cover System

1. A final cover system pursuant to 30 TAC Chapter 330 Subchapter K must be installed over all waste placed in landfill cells. The final cover system shall be constructed in accordance with the rules and the specifications in Part III, Attachment 7B, Final Cover Quality Control Plan of the application, and must consist of the following components (from top to bottom): 6-inch (if the underlying compacted soil layer is classified as SC or CL) or 12-inch (if the underlying compacted soil layer is classified as CH) thick topsoil layer capable of sustaining native plant growth, and 1.5-ft thick compacted soil layer (hydraulic conductivity $\leq 1 \times 10^{-6}$ cm/second). The final cover system shall be installed as described in Part III, Attachment 7, Closure Plan of the application.
2. The maximum elevation of the final cover shall not exceed 820.5 feet above msl.
3. Best management practices for temporary erosion and sedimentation control shall remain in place until sufficient vegetative cover has been established to control and mitigate erosion on areas having final cover. Vegetative cover will be monitored and maintained throughout the post-closure care period in accordance with Part III, Attachment 8, Post Closure Plan.

G. Waste Placement

1. The lowest elevation of waste placement will be approximately 550 feet above msl.
2. The maximum final elevation of waste placement will be approximately 818 feet above msl.

H. Landfill Gas Management System

1. A landfill gas management system to monitor and control methane gas pursuant to 30 TAC Chapter 330, Subchapter I shall be installed and operated at the landfill. The landfill gas monitoring system shall consist of a perimeter network of landfill gas monitoring probes and landfill gas monitoring equipment for facility structures. The landfill gas monitoring probes and landfill gas control system shall be located as described in Part

III, Attachment 6, Landfill Gas Management Plan of the application. The landfill gas monitoring and control systems shall be designed, installed, and operated as described in Attachment 6, Landfill Gas Management Plan of the application and consistent with applicable rules. At a minimum, landfill gas monitoring shall be conducted on a quarterly basis.

2. The landfill gas management system shall ensure that the concentration of methane gas generated by the facility does not exceed 5% by volume in monitoring points, probes, subsurface soils, or other matrices at the facility boundary defined by the legal description in the permit or permit by rule, and does not exceed 1.25% by volume in facility structures (excluding gas control or recovery system components). If methane gas levels exceeding the limits specified herein are detected, the owner or operator shall follow and implement the notification and mitigation provision described under 30 TAC §330.371(c) to ensure continuous protection of human health and the environment.

I. Groundwater Monitoring System

1. The groundwater monitoring system shall be installed and shall consist of a sufficient numbers of monitoring wells to monitor the quality of groundwater in the uppermost aquifer in accordance with 30 TAC §330.403. The system shall be designed, constructed, and operated in accordance with Part III, Attachment 5, Groundwater Characterization Report of the application and consistent with the applicable rules.
2. Monitoring wells shall be sampled in accordance with 30 TAC §330.417 for Type IV landfills. The frequency of groundwater sampling and reporting of data collected for each sampling event shall be in accordance with 30 TAC §330.405 and Part III, Attachment 5B, Groundwater Sampling and Analysis Plan of the application.

J. Landfill Markers

Landfill markers shall be installed and maintained in accordance with 30 TAC §330.143 and as described within Part IV, Site Operating Plan, Section 13 of the application.

K. Stormwater Control

Storm water runoff from the active portions of the landfill shall be managed in accordance with 30 TAC §§330.63(c), 330.301 through 330.307, and 330.167, and as described in Part III, Attachment 2, Facility Surface Water Drainage Report of the application.

L. Facility Personnel

The permittee shall comply with 30 TAC §330.59(f) (3) regarding employment of a licensed solid waste facility supervisor. The permittee shall ensure that landfill personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and

positions of responsibility as described in Part IV, Section 5.1 of the permit application. All facility employees and other persons involved in facility operations shall obtain the appropriate level of training or certification as required by applicable regulations.

M. Vector Control

The facility shall be properly supervised to assure that bird populations do not cause a significant hazard to low-flying aircraft and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to safe aircraft operations will require prompt mitigation actions.

IV. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within this permit and maintenance of financial assurance in accordance with 30 TAC Chapter 330 Subchapter L and 30 TAC Chapter 37.
- B. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of closure in an amount not less than \$2,024,648 (in 2015 dollars).
- C. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount not less than \$1,580,905 (in 2015 dollars).
- D. The permittee shall annually adjust the closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §§330.503 and 330.507, as applicable.
- E. If the facility's closure and/or post-closure care plan is modified the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.503, 330.463(b)(3)(D), and 330.507, as applicable. The amount of the financial assurance mechanism shall be adjusted within 45 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the Texas Commission on Environmental Quality (TCEQ) subsequent to the issuance of this permit shall be initiated as a modification within 30 days after the effective date of the new regulation.

V. Facility Closure

Closure of the facility shall commence:

- A. Upon the landfill being filled to its permitted waste disposal capacity or upon the landfill reaching its permitted maximum waste grades;
- B. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director is authorized to issue emergency orders to the permittee in

accordance with §§5.501 and 5.512 of the Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;

- C. Upon abandonment of the site by the permittee;
- D. Upon direction by the Executive Director of the TCEQ for failure to secure and maintain an adequate bond or other acceptable financial assurance instrument as required; or
- E. Upon the permittee's notification to the TCEQ that the landfill will cease to accept waste and no longer operate.

VI. Facility Post-Closure Care

- A. Upon completion and closure of the landfill, post-closure care shall be conducted in accordance with 30 TAC §330.463 and as described in Part III, Attachment 8, Post Closure Plan of the application for a period of 5 years following written acceptance of the certification of final closure by the Executive Director of the TCEQ.
- B. The vegetation on the final cover must be monitored and maintained throughout the post-closure care period.
- C. Following completion of the post-closure care period, the owner or operator shall submit to the Executive Director for review and approval a documented certification prepared by an independent professional engineer licensed in the State of Texas in accordance with 30 TAC §330.465.
- D. Upon written acceptance of the certification of completion of post closure care by the Executive Director of the TCEQ, the permittee shall submit to the Executive Director a request for voluntary revocation of this permit.

VII. Standard Permit Conditions

- A. This permit is based on and the permittee shall follow the permit application submittals dated March 4, 2015 and revisions dated July 27, 2015 and October 2, 2015. These application submittals are hereby approved subject to the terms of this permit, the rules and regulations, and any orders of the TCEQ. These application materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these elements shall become conditions of this permit upon the date of approval by the Commission. The permittee shall maintain the application and all supporting documentation at the facility or other location approved by the executive director and make them available for inspection by TCEQ personnel. The contents of Part III of Attachment A of this permit shall be known as the "Approved Site Development Plan" in accordance with 30 TAC §330.63. The contents of Part IV of Attachment A of this permit shall be known as the "Approved Site Operating Plan" in accordance with 30 TAC §330.65 and 30 TAC Chapter 330, Subchapters D and E.
- B. Attachment B, consisting of amendments, modifications, and corrections to this permit, is hereby made a part of this permit.

- C. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act, and is grounds for an enforcement action, revocation, or suspension.
- D. A pre-construction conference shall be held pursuant to 30 TAC §330.73(c) prior to beginning physical construction of the expansion of the facility to ensure that all aspects of this permit, construction activities, and inspections are met. Additional pre-construction conferences may be held prior to the opening of the expansion areas.
- E. A pre-opening inspection shall be held pursuant to 30 TAC §330.73(e). The permittee should contact the executive director and the TCEQ region office in writing to request a pre-opening inspection once all applicable construction activity has been completed and prior to accepting any waste. Per 30 TAC §330.73(f), the facility shall not accept solid waste within areas resulting from the expansion until the executive director has confirmed in writing that all applicable submissions required by the permit and applicable rules have been received and found to be acceptable and that construction is in compliance with the permit and the approved site development plan. If the executive director has not provided a written or verbal response within 14 days of completion of the pre-opening inspection, the expansion areas shall be considered approved for acceptance of waste.
- F. The permittee shall monitor sediment accumulation in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain design flow. The roads within the facility shall be designed so as to minimize the tracking of mud onto the public access road.
- G. In accordance with 30 TAC §330.19(a), the permittee shall record in the deed records of Tarrant County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.19(b).
- H. Weekly cover of the waste fill areas shall be performed with well-compacted clean earthen material that has not been in contact with garbage, rubbish, or other solid waste, or with an alternate weekly cover which has been approved in accordance with 30 TAC §§330.165(d) and 305.70(k). Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior weekly cover or which contains waste.
- I. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent vegetation. The permittee shall maintain the on-site access road and speed bumps/mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.

- J. Erosion stability measures shall be maintained on top dome surfaces and external embankment side slopes during all phases of landfill operation, closure, and post-closure care in accordance with 30 TAC §330.305(d).
- K. In compliance with the requirements of 30 TAC §330.145, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 30 days after the permit has been issued.
- L. The permittee shall retain the right of entry onto the site until the end of the post-closure care period as required by 30 TAC §330.67(b).
- M. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the post-closure care period as required by §361.032 of the Texas Health and Safety Code.
- N. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- O. Regardless of the specific design contained in the application or adopted by reference in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the Texas Administrative Code, and local, state, and federal laws or ordinances.
- P. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116 and 30 TAC Chapter 330, Subchapter U.
- Q. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the State of Texas TPDES requirements, as applicable.

VIII. Incorporated Regulatory Requirements

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

IX. Special Provisions

None

Attachment A

Parts I through IV of the permit application.

Attachment B

Amendments, corrections, and modifications issued for MSW Permit No. 1983C.

DRAFT

Texas Commission on Environmental Quality

Executive Director's Preliminary Decision

February 29, 2016

DESCRIPTION OF APPLICATION

Applicant: IESI Tx Landfill LP

Facility: IESI Fort Worth C&D Landfill
Municipal Solid Waste (MSW) Permit Application No. 1983C

Type: Type IV Municipal Solid Waste Landfill

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The executive director of the Texas Commission on Environmental Quality has made the preliminary decision that this proposed MSW Permit No. 1983C, for IESI Tx Landfill LP, if issued, meets all statutory and regulatory requirements.

EXHIBIT C

Withdrawal Letters

Kathy Carroll
605 Ruth Drive
Kenndale, Texas 76060

July 1, 2016

Bridget C. Bohac, Chief Clerk (MC-105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

MSW
97618

CHIEF CLERKS OFFICE

2016 JUL 22 AM 10:06

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

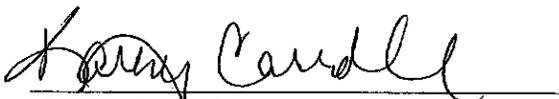
Re: Withdrawal of Request for Contested Case Hearing
IESI TX Landfill
TCEQ Permit No. 1983C

Dear Ms. Bohac:

By letter dated April 13, 2016, I formally requested a contested case hearing concerning the above-referenced permit application. I no longer desire a contested case hearing and hereby fully withdraw our letter dated April 13, 2016.

Thank you for your attention to this matter.

Sincerely,


Kathy Carroll

REVIEWED

JUL 25 2016

By BP

WH

Gloria Villaire
208 Arthur Drive
Kennedale, Texas 76060

MSW
97618

CHIEF CLERK

2016 JUL 25 11:11:36

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

July 1, 2016

Bridget C. Bohac, Chief Clerk (MC-105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

REVIEWED

JUL 25 2016

By MP

wk

Re: Withdrawal of Request for Contested Case Hearing
IESI TX Landfill
TCEQ Permit No. 1983C

Dear Ms. Bohac:

By letter dated April 14, 2016, I formally requested a contested case hearing concerning the above-referenced permit application. I no longer desire a contested case hearing and hereby fully withdraw our letter dated April 14, 2016.

Thank you for your attention to this matter.

Sincerely,


Gloria Villaire

EXHIBIT D

Amended Response to Comments (Amended RTC)

TCEQ PERMIT NO. 1983C

**APPLICATION BY IESI TX
LANDFILL LP
FOR MSW PERMIT NO. 1983C
TARRANT COUNTY**

**§ BEFORE THE TEXAS COMMISSION
§
§ ON
§ ENVIRONMENTAL QUALITY**

AMENDED EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Amended Response to Public Comment (Response or RTC) on the application by IESI TX Landfill LP for an amendment to Municipal Solid Waste (MSW) Permit No. 1983C. **The procedural background description and the ED's response No 12 included incorrect publication dates for the Notice of Receipt and Intent to Obtain (NORI). The NORI publication dates were revised to show the correct dates.**

As required by Title 30 TEX. ADMIN. CODE § 55.156 (Rule), before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk (OCC) timely received comments from the following persons:

Babette Birchett
Joan Cauley
Kathy Carroll
Diance Crain
Jack Crain
Ashley Derringotn
Chris Evans
Sheila Fiorella
Liliane Garza
Ashley Geribo

Randall Kahan
Terry Leese
Natalie McKay
Arthur McMahan
Jessica Monreal
Chandra Moore
Vicki Murphy
Susan Regalado
Patricia Richardson
William Richardson

Lana Sather
Christopher Shelton
Rebecca Simmons
Lora Simpson
Susan Thomas
Cliff Uranga
Gloria Villaire
Lee Wood

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

BACKGROUND

Description of Facility

IESI TX Landfill LP (IESI) owns and operates the IESI Fort Worth C&D Landfill located at 4144 Dick Price RD, Ft. Worth, Tarrant County, Texas 76140. The landfill is a Type IV landfill, which only accepts brush, construction and demolition waste, and rubbish.¹ IESI applied for a major amendment to increase the maximum permitted height of the landfill and to increase the total waste disposal capacity of the landfill. The application also includes updates and revisions to the landfill's site development plan, waste acceptance plan, site operating plan, and other supporting permit documents.

Currently, the permitted landfill facility encompasses 151.73 total acres. Only 77.7 acres of that total are used for waste disposal. The maximum permitted height of waste fill is currently 719 feet above mean sea level (msl) and the maximum permitted height of final cover is 721.5 msl. If this permit amendment is approved, the height of the final waste fill and final cover would be increased by 99 feet. Therefore, the amended maximum permitted height of waste fill would be 818 msl and the amended maximum permitted height of the final cover would be 820.5 msl. According to the application, authorized wastes are currently accepted at an initial rate of approximately 364,344 tons per year, forecasted to grow to a rate of approximately 413,560 tons per year by 2035.

The currently permitted landfill capacity is 12 million cubic yards which IESI estimates will be depleted in 2023. If this permit amendment is approved, the landfill capacity will be increased by 6.3 million cubic yards for a total of 18.4 million cubic yards and its estimated site life would be extended by approximately 12.5 years to the year 2035.

The amended permit would authorize the expansion of the existing Type IV municipal solid waste landfill with a total net disposal volume (waste and weekly cover) of approximately 18.4 million cubic yards, in addition to support structures and facilities as described in the permit amendment application and subject to the limitations contained in the draft permit and commission rules. The existing permitted landfill facility consists of a site entrance with security fencing, a gatehouse, scales, a paved entrance road to the site, all-weather access roads, soil stockpiles, a landfill gas monitoring system, a groundwater monitoring system, and the solid waste disposal area. Within the permitted landfill facility, there will continue to be a composting area, a large items/white goods unloading and storage area, a construction and demolition (C&D) recyclable sorting area, and a wood recycling area (they are all authorized under the current permit). The permitted landfill facility also includes structures for surface drainage and stormwater run-on/runoff control and a perimeter drainage system to

¹ 30 TAC § 330.5(a)(2). Type IV MSW facilities may not accept putrescible waste, conditionally exempt small-quantity generator waste, or household wastes.

convey stormwater runoff around the site. The amended permit would modify the drainage system and add mechanically-stabilized earth and other berms, ditches, detention ponds and associated drainage structures.

Revised Procedural Background

This permit application is for a major permit amendment. The Waste Permits Division received the application on March 4, 2015 and declared it administratively complete on May 5, 2015. The Notice of Receipt and Intent to Obtain (NORI) was published in English on **May 26, 2015**, in the *Fort Worth Star Telegram* and in Spanish on **May 30, 2015** in *La Estrella*. The application was declared technically complete on March 1, 2016. The Notice of Application and Preliminary Decision (NAPD) was published in English on March 19, 2016, in the *Fort Worth Star Telegram* and in Spanish in the *La Estrella*. The public comment period ended on April 18, 2016. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Access to Rules, Laws and Records

SOS Website	http://www.sos.state.tx.us/tac/index.shtml
Texas Statutes	http://www.statutes.legis.state.tx.us/
TCEQ Website	http://www.tceq.texas.gov

The permit amendment application, ED's preliminary decision, and the draft permit for IESI Fort Worth C&D Landfill Permit 1983C are available for viewing and copying at the Kennedale Public Library, 316 W 3rd Street, Kennedale, Texas 76060.

If you would like to file a complaint, you may contact the Agency at 888-777-3186 or you may contact the TCEQ Region 4 office at 2309 Gravel Dr., Fort Worth TX 76118-6951, phone number 817-588-5800. If the amendment is issued and the facility is subsequently found to be out of compliance, it may be subject to enforcement action.

COMMENTS AND RESPONSES

Comment No. 1: Odors

Several commenters expressed concern that the application does not provide sufficient measures to prevent nuisance odors. Specifically, they were concerned that odors currently emanating from the facility would be exacerbated by the proposed expansion.

Response No. 1:

TCEQ rules require that the facility be operated in a way that prevents the occurrence of nuisance odor conditions.² Every permitted landfill must have a Site Operating Plan (SOP) and each SOP must include an odor management plan that addresses the sources of odors and includes general instructions to control odors or sources of odors.³ As required, IESI submitted an odor management plan with its application, as part of its SOP.⁴ According to the odor management plan, IESI will control odors by: properly landfilling and compacting incoming waste; covering the waste on a weekly basis; segregating contaminated water from clean surface water; and controlling ponded water.⁵ The Executive Director determined that the IESI's odor management plan complies with these regulatory requirements.

The TCEQ Regional Office conducts regularly scheduled inspections at the landfill. However, because the TCEQ cannot monitor each regulated facility at all times, the agency encourages citizens to report any observed violations at a facility to the Regional Office. Complaints regarding the facility may be made by contacting the TCEQ Region 4, Dallas/Fort Worth Office at 817-588-5700 or the toll-free Environmental Violation Hotline at 1-888-777-3186. Complaints may also be made electronically through the Commission's website by following the menu for "Reporting" and "Reporting an Environmental Problem" at <http://www.tceq.texas.gov>. If the facility violates a term of the permit or the TCEQ's regulations, the permittee may be subject to an enforcement action.

Comment No. 2: Property Values

Several commenters express concern that the amended permit would cause property values to diminish.

Response No. 2:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The Executive Director's review of a permit application considers whether the proposed facility meets the requirements of Chapter 330 of TCEQ's rules.⁶ The TCEQ does not have jurisdiction to consider property values or the devaluation of property values when determining whether to approve or deny a permit application.

Comment No. 3: Access Roads and Traffic

Christopher Shelton submitted comments highlighting concerns about the amount of truck traffic.

² 30 Tex. Admin. Code § 330.15(a)(2).

³ 30 Tex. Admin. Code § 330.149.

⁴ Application, Part IV, Section 16.

⁵ Application, Part IV, Section 16 (page 46).

⁶ See 30 Tex. Admin. Code Ch. 330.

Response No. 3:

TCEQ rules require an application to include data on the availability and adequacy of site access roads and on the volume of existing and expected traffic on such access roads within one mile of the proposed facility.⁷ The IESI Application included a traffic data and impact analysis in Appendix IIB. Section 4.3 of that analysis states that the volume of facility traffic currently accounts for approximately 15 percent of the total traffic volume on Dick Price Road and is not expected to change if the amendment is approved. Additionally, the facility traffic volume is expected to continue to be less than three percent for other roads in vicinity of the facility.

TCEQ rules require an applicant to submit documentation of coordination with the Texas Department of Transportation (TXDOT).⁸ The IESI Application includes a letter from TXDOT indicating no objections to the proposed expansion of the facility. As required by the rules, MSW permitting staff coordinated with TXDOT during the application review process.⁹ TXDOT stated that “the adequacy and design capacities of the nearby roadways are sufficient to safely accommodate any additional traffic generated by the proposed facility.”¹⁰ In accordance with TCEQ rules, the SOP includes measures for mud tracking prevention and access road cleaning (Application, Part IV, Site Operating Plan, Sections 14 and 18).¹¹ The Executive Director has reviewed the application and determined that the information provided and the proposed operating measures for site access roads satisfy the rule requirements.

Comment No. 4: Air Quality

Ashley Geribo submitted a comment expressing concern that the proposed amendment would result in increased air pollution and lower air quality.

Response No. 4:

Air emissions from MSW landfills are authorized and regulated under 30 TAC Chapter 330, Subchapter U. TCEQ rules prohibit operation of an MSW landfill in a manner that causes, suffers, allows or contributes to the creation or maintenance of a nuisance.¹² Part I, Section 5.1 of the application indicates that the facility has received the required standard air permit. In addition, TCEQ rules require an Odor Management Plan that addresses the sources of odors and includes general instructions to control odors or sources of odors.¹³ The application includes an Odor Management Plan as Section 16 of the SOP. According to the SOP, odors will be minimized by: promptly landfilling and compacting waste; promptly covering waste with odors with other waste

⁷ 30 Tex. Admin. Code § 330.61.

⁸ 30 Tex. Admin. Code § 330.61(i)(4).

⁹ 30 Tex. Admin. Code § 330.23.

¹⁰ See July 10, 2015 letter.

¹¹ 30 Tex. Admin. Code §§ 330.145 and 330.153.

¹² 30 Tex. Admin. Code § 330.15(a)(2).

¹³ 30 Tex. Admin. Code § 330.149.

or with cover soil; applying cover on a least a weekly basis; segregating contaminated water that may become a source of odors from clean surface water; controlling ponded water over waste disposal areas.¹⁴ MSW permitting staff reviewed the Odor Management Plan and determined it satisfies the requirements regarding air quality.

Individuals are encouraged to report any concerns regarding air quality or odor to the TCEQ Region 4, Dallas/Fort Worth office by calling 817-588-5700. More information about making an environmental complaint is available under Response No. 1 above.

Comment No. 5: Potential Health Problems

Babette Birchett and Jessica Monreal both expressed concern about potential health problems associated with an expanded landfill.

Response No. 5:

The TCEQ promulgated rules for the management of MSW pursuant to statutory mandates, general authority, and jurisdiction over solid waste granted to TCEQ by the Texas Legislature in accordance with the TCEQ's mission statement: The TCEQ strives to protect our state's human and natural resources consistent with sustainable economic development. TCEQ's goal is clean air, clean water, and the safe management of waste. TCEQ's rules are designed to be protective of human health and the environment.

The Executive Director has preliminarily determined that the proposed landfill complies with the Texas Solid Waste Disposal Act (TSWDA) and 30 TAC Chapter 330, which were promulgated to protect human health and the environment.

The Executive Director has reviewed the application and determined that if the facility is constructed and operated in accordance with the rules and the terms and conditions of the draft permit and application that the facility should not adversely impact human health or the environment.

Comment No. 6: Runoff Contamination

Several commenters expressed concerns about potential runoff that would result if the permit is amended.

Response No. 6:

TCEQ rules prohibit unauthorized discharge of solid waste or pollutants into or adjacent to waters in the state.¹⁵ TCEQ rules require contaminated water, including leachate, condensate, and water that has contacted waste, to be collected, contained, properly managed and disposed of in a manner that does not cause surface or groundwater pollution.¹⁶ Off-site discharge of contaminated water from an MSW

¹⁴ Application, Part IV, Section 16.2.

¹⁵ 30 Tex. Admin. Code § 330.15(h) and Tex. Water Code § 26.121.

¹⁶ 30 Tex. Admin. Code § 330.207.

permitted landfill facility is prohibited without prior authorization.¹⁷ Additionally, an MSW permitted landfill facility must be constructed, maintained, and operated in a way that does not adversely alter existing drainage patterns.¹⁸ Specifically, the design and management must be capable of managing run-on and run-off during the peak discharge of a 25-year rainfall event in a manner that prevents the off-site discharge of waste.¹⁹ Finally, surface water onto and off of an active portion of the landfill must be controlled.²⁰

Comment No. 7: Visibility of Landfill

Several commenters stated the landfill is an eyesore and expressed concerns about visibility.

Response No. 7:

TCEQ rules require the owner or operator of the facility provide visual screening of waste in certain circumstances.²¹ According to the application, waste may be visible to the surrounding community. Visibility of the waste will be minimized by visual screening measures described in Section 29 of the SOP. According to the SOP the screening measures currently include trees, an earthen berm, a levee and natural floodplain buffer. The ED has determined that no additional screening is required and has concluded that the application complies with requirements for visual screening of waste.

Comment No. 8: Quality of Life

Several commenters expressed concern that their quality of life would diminish if the TCEQ approved the proposed amendment to Permit 1983C. Specifically, commenters voiced concerns about the proximity of the landfill to surrounding neighborhoods, schools, and the Southwest Arlington Nature Preserve. Furthermore, Susan Thomas expressed concern that the proposed expansion would cause people to leave the town and prevent town growth.

Response No. 8:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ does not have jurisdiction to consider effects on quality of life when determining whether to approve or deny a permit application. TCEQ rules require the ED to consider the impact of a site upon a city, community, group of property owners, or individuals in terms of compatibility of land use, zoning, community growth patterns, and other factors associated with the public

¹⁷ 30 Tex. Admin. Code § 330.207.

¹⁸ 30 Tex. Admin. Code § 330.305(a).

¹⁹ 30 Tex. Admin. Code § 330.303(a).

²⁰ 30 Tex. Admin. Code §§ 330.303(b) and 330.305(b).

²¹ 30 Tex. Admin. Code § 330.175.

interest.²² To assist the ED in considering these issues, the applicant is required to include a description of zoning at the site and in the vicinity; character of the surrounding land uses within one mile of the proposed facility; growth trends and the directions of major development for the nearest community; proximity to residences, business establishments, and other uses within one mile, such as schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality; and information regarding all known wells within 500 feet of the site.

Part II, Section 5.1.1 of this permit application indicated that the permitted landfill facility is in an unincorporated area of Tarrant County and is not within any city limits; the facility is located within the extraterritorial jurisdiction of Kennedale; the facility land is not zoned; and a special permit is not required for approval as a nonconforming use.

Local governments have certain authorities over municipal solid waste management in their jurisdictional areas.²³ During the application review process, the TCEQ MSW Permits Section contacted the Tarrant County and the City of Kennedale and did not receive comments over the proposed vertical expansion of the existing landfill. The North Central Texas Council of Governments, the regional waste planning authority, was also contacted regarding the proposed expansion at the existing permitted landfill facility. North Central Texas Council of Governments found the proposed permit amendment to be consistent with the regional solid waste management plan. The site is an existing permitted landfill facility and the proposed vertical expansion will be on the land the landfill permittee already owns.

TCEQ's jurisdiction is established by the Legislature, and is limited to the issues set forth in statute and rules. There is no specific rule protecting the enjoyment of life, but the rule requirements are intended to implement the state's policy to safeguard the health, welfare and physical property of the people. The Executive Director has determined that the required information concerning land use was submitted in the application and that it was current at the time the application was declared technically complete. The land use information submitted does not justify the commission denying the application based on the landfill being an incompatible land use.

Comment No. 9: Impacts on Cell Reception

Christopher Shelton expressed concern about landfill mounds causing cell phone disruption by blocking cell towers.

²² 30 Tex. Admin. Code § 330.61(h).

²³ 30 Tex. Admin. Code § 330.23(f) and (g).

Response No. 10

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The Executive Director's review of a permit application considers whether the proposed facility meets the requirements of Chapter 330 of the TCEQ's rules. Chapter 330 does not require the applicant to provide information regarding nearby cell towers or impact of a proposed landfill facility on cell phone reception.²⁴

Comment No. 10: Impacts on Wildlife

Several commenters raised concerns that the facility will have a negative impact on wildlife or wildlife habitat.

Response No. 10:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute.²⁵ Accordingly, the TCEQ does not have jurisdiction to consider the impact of an MSW landfill facility on wildlife or wildlife habitat that is not protected by state or federal statute. TCEQ rules prohibit the facility or operation of the facility from resulting in destruction or adverse modification of the critical habitat of endangered species and the causing or contributing to the taking of any endangered or threatened species.²⁶ The rule requires applicants:

[S]ubmit Endangered Species Act compliance demonstrations . . . and determine whether the facility is in the range of endangered or threatened species. If the facility is located in the range of endangered or threatened species the owner or operator shall have a biological assessment prepared by a qualified biologist in accordance with standard procedures of the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department to determine the effect of the facility on the endangered or threatened species.²⁷

The Application includes a technical report regarding threatened and endangered species.²⁸ According to the report, one potentially suitable habitat was found for a state-listed threatened species (timber rattlesnake), within the riparian woods and forest adjacent to Village Creek on the western portion of the permitted landfill facility. As a result of coordination with the Texas Parks and Wildlife Department, a protection zone along Village Creek was designated for the timber rattlesnake; the effects to this species or its habitat would be expected to be negligible.²⁹ Section 20 of the SOP includes a

²⁴ See 30 Tex. Admin. Code Ch. 330.

²⁵ Tex. Health & Safety Code § 361.011.

²⁶ 30 Tex. Admin. Code § 330.61(n).

²⁷ 30 Tex. Admin. Code § 330.61(n).

²⁸ Application, Part II, Appendix III.

²⁹ Application, Part II, Section 11.

timber rattlesnake protection plan. The report did not identify any federally-listed species or habitat for federally listed species in the facility.³⁰

Comment No. 11: Past Violations

Several commenters expressed concern about three violations occurring at the IESI TX Landfill in the past year.

Response No. 11:

The MSW Permit Section's application review process requires that a compliance history of the owner and the operator of the landfill be searched for violations and compiled. The compliance history period included in the review of a permit application is comprised of the five years prior to the date the permit application is received by the ED.³¹ The compliance history prepared for this permit application includes three violations within the five-year compliance period, all of which involved violations related to the landfill's cover requirements and were resolved to the agency's satisfaction. The compliance history classification for the facility is satisfactory.

Comment No. 12: Lack of Elderly Public Participation

Lana Suther commented that numerous elderly residents did not voice their concerns because they do not have access to fax, email, and did not see the electronic notifications.

REVISED Response No. 12:

The TCEQ and IESI notified the public regarding this permit amendment application according to TCEQ's rules.³² The TCEQ rules do not require notification via fax, email, or electronic media, but do require publication of notice in local newspapers, as well as mailed notice to all property owners within 0.25 mile of the facility. The Notice of Receipt and Intent to Obtain a Municipal Solid Waste Permit was published on **May 26, 2015**, in the *Fort Worth Star Telegram* and on **May 30, 2015** in the *La Estrella* (in Spanish). The Notice of Application and Preliminary Decision (NAPD) was published in English on March 19, 2016, in the *Fort Worth Star Telegram* and in Spanish in the *La Estrella*. Additionally, the NORI and NAPD were mailed to the landowners IESI indicated are located within one-quarter mile of the proposed permit boundary and individuals who informed the Office of the Chief Clerk that they are interested in this facility or application.

Comment No. 13: Fires Burning at Night

Susan Regalado commented and expressed concern about fires burning nightly.

³⁰ Application, Part II, Appendix III.

³¹ 30 Tex. Admin. Code § 60.1(b)

³² 30 Tex. Admin. Code § 39.501(c) and (d).

Response No. 13:

Burning of solid waste is prohibited, except in very specific circumstances as outlined in 30 TAC § 330.15(d). Additionally, according to the Site Operating Plan, which will be incorporated into the permit if it is issued, “no unauthorized burning of solid waste will be permitted at the site.”³³ Any unauthorized burning may be a violation of the permit and may subject IESI to enforcement action. As part of the amendment process, the ED reviews a facility’s last five years of compliance history. The compliance history for the IESI Ft. Worth Facility showed three violations, none of which were related to fire.

The TCEQ encourages citizens to report any observed violations at a facility to the Regional Office. Complaints regarding the facility may be made by contacting the TCEQ Region 4, Dallas/Fort Worth Office at 817-588-5700 or the toll-free Environmental Violation Hotline at 1-888-777-3186. Complaints may also be made electronically through the TCEQ’s website by following the menu for “Reporting” and “Reporting an Environmental Problem” at <http://www.tceq.texas.gov>. If the facility violates a term of the permit or the TCEQ’s regulations, the permittee may be subject to an enforcement action.

³³ IESI SOP Section 6.2.

CHANGES MADE IN RESPONSE TO COMMENTS

No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard Hyde,
Executive Director

Robert Martinez, Director
Environmental Law Division

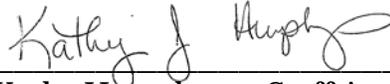
By 

Kathy Humphreys, Staff Attorney
Environmental Law Division
State Bar No. 24006911
P. O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone: 512.239.3417

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that on June 17th, 2016, the original of the “Amended Executive Director's Response to Public Comment” on the application by IESI TX Landfill LP for an amendment to Municipal Solid Waste Permit No. 1983C was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



**Kathy Humphreys, Staff Attorney
Environmental Law Division
Texas Commission on Environmental Quality**

EXHIBIT E

Decision of the Executive Director



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 20, 2016

TO: Persons on the attached mailing list.

RE: IESI Tx Landfill LP
Permit No. 1983C

Decision of the Executive Director.

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

Enclosed with this letter is a copy of the Amended Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Kennedale Public Library, 316 West 3rd Street, Kennedale, Texas 76060.

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

How To Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

Bridget C. Bohac, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

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

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Bridget C. Bohac
Chief Clerk

BCB/ms

Enclosure

MAILING LIST
for
IESI Tx Landfill LP
Permit No. 1983C

FOR THE APPLICANT:

John Lamanna, Vice President
IESI TX GP Corporation
2301 Eagle Parkway, Suite 200
Fort Worth, Texas 76177

Scott M. Graves, P.E.
Geosyntec Consultants
8217 Shoal Creek Boulevard, Suite 200
Austin, Texas 78757

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Brian Christian, Director
Texas Commission on Environmental
Quality
Environmental Assistance Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Kathy J. Humphreys, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
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Austin, Texas 78711-3087

Frank Zeng, Technical Staff
Texas Commission on Environmental
Quality
Waste Permits Division
MSW Permits Section MC-124
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Vic McWherter, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

BIRCHETT , BABETTE
7030 ESCONDIDO DR
ARLINGTON TX 76016-5422

CARROLL , KATHY
605 RUTH DR
KENNEDEALE TX 76060-2628

CAULEY , JOAN
5224 SARATOGA LN
ARLINGTON TX 76017-1863

CRAIN , DIANE
903 BELL OAK DR
KENNEDEALE TX 76060-5624

CRAIN JR , JACK E
903 BELL OAK DR
KENNEDEALE TX 76060-5624

DERRINGTON , ASHLEY
714 CRESTVIEW DR
KENNEDEALE TX 76060-2412

EVANS , CHRIS
405 LINDA RD
KENNEDEALE TX 76060-3625

FIORELLA , REVEREND SHEILA
7124 LAYLA RD
ARLINGTON TX 76016-5427

GARZA , LILIANE
633 WINTERWOOD DR
KENNEDEALE TX 76060-2869

GERIBO , MRS ASHLEY
6806 MT VERNON CT
ARLINGTON TX 76017-4953

KAHAN , RANDALL
3337 W PIONEER PKWY
PANTEGO TX 76013-4603

LEESE , MR TERRY
6802 LANDOVER HILLS LN
ARLINGTON TX 76017-4924

MCKAY , MRS NATALIE
500 AVERETT ST
KENNEDEALE TX 76060-3651

MCMAHAN , ARTHUR
MOBILE EXPRESS CAPITAL CORPORATION
7723 PIRATE POINT CIR
ARLINGTON TX 76016-5336

MONREAL , MRS JESSICA
700 AVERETT ST
KENNEDEALE TX 76060-3602

MOORE , CHANDRA
1061 CYDNIE CT
KENNEDEALE TX 76060-6443

MURPHY , VICKI
616 REEVES LN
KENNEDEALE TX 76060-2624

REGALADO , SUSAN
525 W 3RD ST
KENNEDEALE TX 76060-2207

RICHARDSON , PATRICIA
6536 VIRGINIA SQ
ARLINGTON TX 76017-4947

RICHARDSON , WILLIAM D
6536 VIRGINIA SQ
ARLINGTON TX 76017-4947

SATHER , LANA
421 CORRY A EDWARDS DR
KENNEDEALE TX 76060-4436

SHELTON , CHRISTOPHER
104 BRIARWOOD DR
KENNEDEALE TX 76060-3801

SIMMONS , REBECCA
717 SUNRISE DR
KENNEDEALE TX 76060-2881

SIMPSON , LORA
400 FOUNTAIN CT
KENNEDEALE TX 76060-5603

THOMAS , SUSAN
1125 PARKVIEW TRL
KENNEDEALE TX 76060-5841

URANGA , CLIFF
904 BELL OAK DR
KENNEDEALE TX 76060-5623

VILLAIRE , GLORIA M
208 ARTHUR DR
KENNEDEALE TX 76060-5202

WOOD , LEE
4710 MICHELLE DR
ARLINGTON TX 76016-5339

EXHIBIT F

ED's Technical Summary (Jan. 22, 2016)

**Technical Summary
of the
IESI Fort Worth C&D Landfill
MSW Permit Amendment Application
No. 1983C**

**Type IV
Municipal Solid Waste Facility
Tarrant County, Texas**

**Applicant:
IESI Tx Landfill LP**

Date Prepared: January 22, 2016

By the
Municipal Solid Waste (MSW) Permits Section
Office of Waste, Waste Permits Division
Texas Commission on Environmental Quality

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

Name of Applicant: IESI Tx Landfill LP
2301 Eagle Parkway, Ste. 200
Fort Worth, Texas 76177

Name of Facility: IESI Fort Worth C&D Landfill
4144 Dick Price Road
Fort Worth, Texas 76140

Contact Person: Mr. John Lamanna
Vice President
IESI TX GP Corporation
2301 Eagle Parkway, Ste. 200
Fort Worth, Texas 76177
Phone No. (817) 632-4000

Consulting Engineer: Mr. Scott M. Graves, P.E.
Geosyntec Consultants
8217 Shoal Creek Blvd., Ste. 200
Austin, Texas 78757
Phone No. (512) 451-4003

1.0 GENERAL

1.1 Purpose:

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit amendment to authorize the vertical expansion of the existing IESI Fort Worth C&D Landfill, a Type IV municipal solid waste (MSW) landfill in Tarrant County, Texas. The total permitted facility will include 151.73 acres of which approximately 77.7 acres will be used for waste disposal. The maximum final elevation of the maximum waste fill and final cover material will be 818.0 and 820.5 feet above mean sea level (msl), respectively. If this permit amendment is approved, the height of the final cover will be increased by a maximum 99 feet from that of the currently permitted.

1.2 Wastes to be Accepted:

The permittee is authorized to dispose of the types of waste identified in 30 Texas Administrative Code (TAC) Section (§) 330.5(a)(2), §330.171(a) and §330.173(i)-(j), including: brush; construction waste; demolition waste; rubbish; inert material (both natural and man-made); mechanical shredding waste as allowed under the Health and Safety code §361.019(b); trash; yard waste that is free of putrescible and household waste; scrap tires; special waste that is consistent with the limitations established in 30 TAC §330.5(a)(2) and the waste acceptance plan required by §330.61(b); Class 2 nonhazardous industrial solid waste that is consistent with the limitations established in 30 TAC §330.5(a)(2) and the waste acceptance plan required by §330.61(b); and Class 3 nonhazardous industrial solid waste. The types of wastes and their acceptances shall be limited to and in accordance with the conditions included in Section 5.5 of Part IV of the permit amendment application. Wood, clean yard trimmings, and other feedstock/wastes as identified in Appendix IVB of the Site Operating Plan contained in Part IV of the permit application will be accepted for the existing composting operation within the landfill permit boundary.

The landfill may not accept wastes other than the wastes described above. Those waste streams that are expressly prohibited by 30 Texas Administrative Code (TAC) Chapter 330 will not be accepted.

1.3 Waste Acceptance Rate and Site Life:

Authorized wastes will be accepted at an initial rate of approximately 364,344 tons per year (Year 2015) and is forecasted to grow to a rate of approximately 413,560 tons per year (Year 2035). The estimated site life is extended by approximately 12.5 years (the landfill capacity is currently expected to be depleted in approximately 2035).

2.0 TECHNICAL REVIEW

The application has been technically reviewed by the Municipal Solid Waste Permits Section to determine its compliance with the applicable requirements in 30 TAC Chapters 305 and 330. Chapter 330 contains the minimum regulatory criteria for municipal solid waste facilities. It has been determined that the information in the permit amendment application, along with the draft permit amendment, demonstrates compliance with these regulatory requirements. A draft permit amendment has been prepared, the application has been declared technically complete.

3.0 LOCATION AND SIZE.

3.1 Location:

The IESI Fort Worth C&D Landfill is located at 4144 Dick Price Road in Tarrant County, Texas approximately 15 miles southeast of downtown Fort Worth, and approximately 2.4 miles south of IH-20 and 5 miles east of IH-35W.

3.2 Elevation and Coordinates of Permanent Benchmark:

Latitude: N 32° 37' 51"

Longitude: W 97° 14' 04"

Elevation: 654.77 feet above mean sea level (msl)

3.3 Size:

The total area within the permit boundary is approximately 151.73 acres.

4.0 FACILITY DESIGN, CONSTRUCTION, AND OPERATIONS.

4.1 Facilities Authorized:

The amended permit will authorize the expansion of an existing Type IV municipal solid waste landfill with a total net disposal volume (waste and weekly cover) of approximately 18.4 million cubic yards in addition to support structures and facilities as described in the permit amendment application and subject to the limitations contained in the permit and commission rules.

The facility consists of a site entrance with security fencing, a gatehouse, scales, a paved entrance road to the site, all-weather access roads, soil stockpiles, a landfill gas monitoring system, a groundwater monitoring system, and the solid waste disposal area.

Structures for surface drainage and stormwater run-on/runoff control include a perimeter drainage system to convey stormwater runoff around the site, mechanically-stabilized earth and other berms, ditches, detention ponds and associated drainage structures.

Within the landfill permit boundary, there will be composting area, a large items/white goods unloading and storage area, a construction and demolition (C&D) recyclable sorting area, and a wood recycling area (they are all authorized under the current permit).

4.2 Waste Placement:

The maximum elevation of waste placement will be approximately 818 feet above msl. The minimum elevation of waste placement will be approximately 550 feet above msl. The elevation of the deepest excavation is approximately 550 feet above msl (if in-situ liner is used) and 546 feet above msl (if constructed liner is used).

4.3 Liner

A liner system meeting the requirements of 30 TAC Chapter 330 Subchapter H will be constructed. The liner will be one of the following two approved options:

- 4-ft thick in-situ soil layer; or
- 3-ft thick re-compacted clay liner (permeability $\leq 1 \times 10^{-7}$ cm/s) overlain with 1 foot of protective cover.

4.4 Final Cover System

The final cover system is designed to meet the requirements of 30 TAC Chapter 330 Subchapter K and will be placed on the above-grade waste. Each landfill sector will be covered with a final cover consisting of the following components (listed in order from top to bottom):

- A 6-inch (if the underlying compacted soil layer is classified as SC or CL) or 12-inch (if the underlying compacted soil layer is classified as CH) thick topsoil layer capable of sustaining native plant growth
- 1.5-ft thick compacted soil layer (hydraulic conductivity $\leq 1 \times 10^{-5}$ cm/s)

5.0 LAND USE

Land use in the vicinity of the site was evaluated in accordance with 30 TAC §330.61(h).

- 5.1 Zoning - The facility is located at approximately 15 miles southeast of downtown Fort Worth, and is approximately 2.4 miles south of IH-20 and 5 miles east of IH-35W. The landfill is not located in any city limits and is not zoned.
- 5.2 Surrounding land uses - The surrounding land within 1 mile radius from the site permit boundary is of mixed use (single-family residential 35.4 percent, undeveloped/agricultural land 26.2 percent, commercial and office 14 percent, other permitted landfills 7.6 percent, and other uses).
- 5.3 Schools, Churches, and Historical Sites - Two churches are located 0.95 miles and 1 mile from the site, respectively. There are no known schools within 1 mile of the site.

There are no known historical sites within the permit boundary or within 1 mile of the site.

6.0 LOCATION RESTRICTIONS

Location restrictions for municipal solid waste landfills are set forth in 30 TAC Chapter 330 Subchapter M.

6.1 Airport Safety:

The closest public-use airport is 5.5 miles from the landfill; the applicant has contacted the Federal Aviation Administration and the Texas Department of Transportation Aviation Division; and both agencies responded with no objections to the proposed vertical expansion. The facility is considered to be in compliance with 30 TAC §330.545.

6.2 Floodplains:

The west part of the permit boundary was located within a 100-year floodway and floodplain. In 1991 a conditional letter of map revision (CLOMR) from Federal Emergency Management Agency (FEMA) approved the development of the landfill with a levee to be built on the west side of the landfill unit (the levee was constructed in 2001). In 2008 the applicant had discussions with the Regional FEMA Office and the Tarrant County Floodplain Administrator; through the discussions it was determined that no additional CLOMR submittals would be necessary. The permit amendment application for the proposed vertical expansion is considered to have demonstrated compliance with 30 TAC §330.547.

6.3 Wetlands:

The correspondence included in Appendix IIG of this application indicates that there are four potentially jurisdictional wetlands located within the permit boundary; and they are not expected to be impacted by the proposed vertical expansion of the landfill.

In its September 4, 2014 letter, the Department of the Army (Fort Worth District, Corps of Engineers) stated that the proposed project will not involve activities subject to the requirements of Clean Water Act Section 404 or Rivers and Harbors Act Section 10; therefore, it will not require the Department of the Army authorization pursuant to Section 404 and/or Section 10. This vertical expansion is considered in compliance with 30 TAC §330.553.

6.4 Fault Areas and Seismic Impact Zones:

There are no known faults within 200 feet of the site. Based on a seismic impact zone map (US Seismic Hazard 2008), it has been determined that the facility is not located within a seismic impact zone as defined in 30 TAC §330.557.

Therefore, the facility is considered to be in compliance with 30 TAC §330.555 and §330.557.

6.5 Unstable Areas:

Based on the evaluations performed by a professional geoscientist and a professional engineer, the facility is not located in an unstable area.

The facility is considered to be in compliance with 30 TAC §330.559.

6.6 Protection of Endangered Species:

An evaluation report included in this application as Appendix IIIH concludes that no federal or state-listed species was documented within 1.5 miles from the landfill site; and no effects to federally listed endangered or threatened species or their critical habitats would be expected. The correspondence included in Appendix IIIH of the application indicated no objections from the Texas Parks and Wildlife Department towards to the proposed vertical expansion.

7.0 TRANSPORTATION AND ACCESS

Within one mile of the site, the main public roadways providing access to the site are Shelby Road, Dick Price Road, Everman Kennedale Road, Anglin Drive, and Averett Road. All of the aforementioned roads have an asphalt surface and a maximum vehicle weight limit of 80,000 pounds. The daily number of vehicles using the site (vehicle trips/day) was 337 in 2013 and is expected to be 412 in 2038. The correspondence included in Appendix IIB of this application indicates that on August 18, 2014 the Texas Department of Transportation approved this proposed landfill expansion in relation to traffic location restrictions.

8.0 SURFACE WATER PROTECTION

As defined in 30 TAC §330.3, contaminated water is water which has come into contact with waste, leachate, or gas condensate. Stormwater which comes into contact with solid waste will be considered contaminated water. Temporary berms will be constructed to minimize the amount of surface water that comes into contact with the waste. Contaminated stormwater at the working face will be contained by run-on/run-off berms.

Contaminated surface water and groundwater will not be placed in or on the landfill. Contaminated water will be transported to an offsite authorized facility for treatment and disposal.

9.0 GROUNDWATER PROTECTION

9.1 Liner:

The previously referenced liner system (Section 4.3) will provide protection of groundwater from contamination.

9.2 Monitoring Wells:

The groundwater monitoring system which will provide for detection of potential releases from the facility will consist of 8 monitor wells. The groundwater monitoring network will be sampled, analyzed, and monitored in accordance with the procedures in the Groundwater Sampling and Analysis Plan (Attachment 5B of the Permit Amendment Application), which is part of the facility permit.

10.0 LANDFILL GAS MANAGEMENT

Landfill gas migration will be monitored around the perimeter of the facility utilizing permanent landfill gas monitoring probes. 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.

11.0 SITE DEVELOPMENT PLAN AND SITE OPERATING PLAN

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

12.0 FINANCIAL ASSURANCE

Authorization to operate this expanded facility is contingent upon the maintenance of financial assurance in accordance with 30 TAC Chapter 330 Subchapter L and Chapter 37 (Financial Assurance) for closure and post-closure care.

13.0 PUBLIC PARTICIPATION PROCESS

The public can participate in the final decision on the issuance of a permit as follows:

- 13.2 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.~~
- 13.3 After technical review of the application is completed, a final draft permit is prepared, and the application is declared technically complete. Information for the application, the draft permit, the notice, and summaries are sent to the chief clerk's office for processing.
- 13.4 The "Notice of Application and Preliminary Decision" is sent to the applicant and published in the newspaper. This notice provides a 30-day period, from the date of publication, for the public to make comment(s) about the application or draft permit. The notice also allows the public to request a public meeting for the proposed facility.
- 13.5 After the 30-day comment period has ended, a "Response to Comments" (RTC) is prepared for all comments received through the mail and at a public meeting. The RTC is then sent to all persons who commented on the application. Persons who receive the comments have a 30-day period after the RTC is mailed in which to request a public hearing.
- 13.6 After the 30-day period to request a hearing is complete, the matter is placed on an agenda meeting for the TCEQ commissioners to make a determination to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a public hearing.
- 13.7 A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant party(ies) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ commissioners for consideration of issuance or denial of a permit.
- 13.8 After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision.

Any motion for rehearing must be filed no later than 20 days after the party or the party's attorney of record is notified of the decision. The matter could be set on another agenda for consideration by the commission, or allowed to expire by operation of law.

- 13.9 Applications for which no one requests a contested case hearing are considered uncontested matters after the 30-day comment period. The application is placed on the executive director's signature docket and a permit is issued. Any motion to overturn the executive director's decision must be filed no later than 23 days after the agency mails notice of the signed permit.

14.0 ADDITIONAL INFORMATION

For information concerning the regulations covering this application, contact:

Mr. Frank Zeng
MSW Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711
(512) 239-1132

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

The complete application may be found via links listed on the internet at the following website address: http://prj.geosyntec.com/TXPermits/IESIFtWC_DLandfill.aspx

For information concerning the legal aspects of the hearing process, agency rules, and submitting public comments, please contact the Texas Commission on Environmental Quality's Office of the Public Interest Counsel at (512) 239-6363.

EXHIBIT G

**ED's Preliminary Decision
(Mar. 8, 2016)**

Texas Commission on Environmental Quality



Notice of Application and Preliminary Decision for Municipal Solid Waste Permit Amendment

Proposed Permit No. 1983C

APPLICATION AND PRELIMINARY DECISION. IESI TX Landfill LP, 2301 Eagle Parkway, Ste. 200, Fort Worth, Texas 76177, the owner and operator of the IESI Fort Worth C&D Landfill, has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to its municipal solid waste permit for the referenced Type IV landfill which accepts brush, construction and demolition waste, and rubbish. The major amendment requests authorization for a vertical expansion to increase the maximum permitted elevation of the landfill and increase the volumetric disposal capacity of the landfill. The application also includes updates and revisions to the landfill's site development, waste acceptance and site operating plans and other supporting permit documents. The landfill is located at 4144 Dick Price Road, Fort Worth, Texas 76140 in Tarrant County, Texas. The TCEQ received this application on March 4, 2015. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.63&lng=-97.2367&zoom=13&type=r>. For an exact location, refer to the application.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Kennedale Public Library, 316 W 3rd Street, Kennedale, Texas 76060. The permit application may be viewed online at http://prj.geosyntec.com/TXPermits/IESIFtWC_DLandfill.aspx.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments and the Executive Director's decision on the application will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A person**

who may be affected by the proposed facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted within 30 days from the date of newspaper publication of this notice either electronically at www.tceq.texas.gov/about/comments.html or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at 800-687-4040. Si desea información en Español, puede llamar al 800-687-4040.

Further information may also be obtained from IESI TX Landfill LP at the address stated above or by calling Mr. Joe Viceli at (817) 632-4228.

Issuance Date: March 08, 2016

EXHIBIT H

Table of Hearing Requestors

TABLE OF HEARING REQUESTORS
IESI TX LANDFILL LP – Fort Worth C&D Landfill
TCEQ MSW Permit No. 1983C

NAME	ADDRESS	DISTANCE TO LANDFILL	POTENTIALLY RELEVANT ISSUES	OTHER ISSUES
MONREAL, JESSICA	700 Averett Rd, Kennedale, TX 76060	≥ 0.6 miles	Odors affect health	Landfill visibility affects property values
GARZA, LILIANE	633 Winterwood Dr, Kennedale, TX 76060	≥ 1.4 miles	No issues identified	
SIMPSON, LORA	400 Fountain Ct, Kennedale, TX 76060	≥ 1.7 miles	Odors	
URANGA, CLIFF	904 Bell Oak Dr, Kennedale, TX 76060	≥ 1.7 miles	Odors	Property values
MOORE, CHANDRA	1061 Cydnie St, Kennedale, TX 76060	≥ 1.9 miles	No issues identified	
CAULEY, JOAN	5224 Saratoga Ln, Arlington, TX 76017	≥ 2.1 miles	Odors; runoff may pollute water table and nature preserve	Property values
LEESE, TERRY	6802 Landover Hills Ln, Arlington, TX 76017	≥ 2.3 miles	Odors	Property values, quality of life
THOMAS, SUSAN	1125 Parkview Trail, Kennedale, TX 76060	≥ 2.4 miles	Odors	

TABLE OF HEARING REQUESTORS
IESI TX LANDFILL LP – Fort Worth C&D Landfill
TCEQ MSW Permit No. 1983C

NAME	ADDRESS	DISTANCE TO LANDFILL	POTENTIALLY RELEVANT ISSUES	OTHER ISSUES
FIORELLA, SHEILA AND RUSS	7124 Layla Rd, Arlington, TX 76016	≥ 2.8 miles	Odors	
BIRCHETT, BABETTE	7030 Escondido Dr, Arlington, TX 76016	≥ 2.8 miles	Odors affect health	Landfill visible from highway; property values, quality of life
KAHAN, RANDALL	3337 W Pioneer Pkwy, Pantego, TX 76013	≥ 6.9 miles		Landfill close to school, residential areas, nature preserve

EXHIBIT I

Compliance History Report



Compliance History Report

PUBLISHED Compliance History Report for CN601668486, RN101478790, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN601668486, IESI Tx Landfill LP	Classification: SATISFACTORY	Rating: 0.39
Regulated Entity:	RN101478790, IESI FORT WORTH C AND D LANDFILL	Classification: SATISFACTORY	Rating: 1.33
Complexity Points:	8	Repeat Violator:	NO
CH Group:	07 - Solid Waste Landfills		
Location:	4144 DICK PRICE RD FORT WORTH, TX 76140-7624, TARRANT COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT 1983B MUNICIPAL SOLID WASTE DISPOSAL PERMIT 1983C STORMWATER PERMIT TXR05AP26 AIR NEW SOURCE PERMITS REGISTRATION 96349		
Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015
		Rating Date:	09/01/2015
Date Compliance History Report Prepared:	February 02, 2016		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Component Period Selected:	February 02, 2010 to February 02, 2016		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	BOBBIE ROGANS	Phone:	(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? YES
- 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.):

Item 1	August 17, 2011	(878619)
Item 2	September 23, 2011	(957449)
Item 3	December 21, 2011	(950558)
Item 4	June 04, 2013	(1076717)
Item 5	January 28, 2015	(1216613)
Item 6	June 22, 2015	(1248517)

EXHIBIT J

Type I Landfill Complaints



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Choose a Complaint Record to View Status

You searched for the following:

Regulated Entity: City of Fort Worth South East Landfill

Your search returned **167** records.
 Please select a record to proceed.

Have you had contact with the TCEQ lately? Complete our [Customer Satisfaction Survey](#).

Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	23853	CLOSED	TARRANT	07/09/03
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	48382	CLOSED	TARRANT	10/25/04
CITY OF FORT WORTH SOUTH EAST LANDFILL	IESI TX LANDFILL LP	209606	CLOSED	TARRANT	01/06/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	211837	CLOSED	TARRANT	03/25/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	211845	CLOSED	TARRANT	03/20/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	216902	CLOSED	TARRANT	07/07/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	216985	CLOSED	TARRANT	07/08/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	221355	CLOSED	TARRANT	09/29/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	224413	CLOSED	TARRANT	12/07/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	224417	CLOSED	TARRANT	12/09/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	224737	CLOSED	TARRANT	12/16/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	224738	CLOSED	TARRANT	12/18/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225133	CLOSED	TARRANT	12/16/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225135	CLOSED	TARRANT	12/28/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225137	CLOSED	TARRANT	12/22/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225140	CLOSED	TARRANT	12/29/15

CITY OF FORT WORTH SOUTH EAST LANDFILL				
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225141	CLOSEDTARRANT	12/29/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225585	CLOSEDTARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225589	CLOSEDTARRANT	12/30/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225594	CLOSEDTARRANT	01/04/16





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Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225684	CLOSED	TARRANT	12/21/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225685	CLOSED	TARRANT	12/20/15
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225880	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225881	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225882	CLOSED	TARRANT	01/08/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225883	CLOSED	TARRANT	01/06/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225884	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225885	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225886	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225887	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225888	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225890	CLOSED	TARRANT	01/08/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225891	CLOSED	TARRANT	01/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	225892	CLOSED	TARRANT	01/08/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226059	CLOSED	TARRANT	01/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226060	CLOSED	TARRANT	01/12/16

CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226061	CLOSEDTARRANT	01/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226062	CLOSEDTARRANT	01/12/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226063	CLOSEDTARRANT	01/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226064	CLOSEDTARRANT	01/12/16

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Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226065	CLOSED	TARRANT	01/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226066	CLOSED	TARRANT	01/12/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226067	CLOSED	TARRANT	01/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226068	CLOSED	TARRANT	01/11/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226932	CLOSED	TARRANT	01/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226933	CLOSED	TARRANT	01/14/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226935	CLOSED	TARRANT	01/15/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226939	CLOSED	TARRANT	01/15/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226941	CLOSED	TARRANT	01/15/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226942	CLOSED	TARRANT	01/15/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226943	CLOSED	TARRANT	01/15/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226944	CLOSED	TARRANT	01/19/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226946	CLOSED	TARRANT	01/19/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226947	CLOSED	TARRANT	01/20/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	226949	CLOSED	TARRANT	01/14/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227020	CLOSED	TARRANT	01/27/16

CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227021	CLOSEDTARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227023	CLOSEDTARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227033	CLOSEDTARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227034	CLOSEDTARRANT	01/22/16





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CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227035	CLOSED	TARRANT	01/15/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227036	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227038	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227053	CLOSED	TARRANT	01/25/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227054	CLOSED	TARRANT	01/25/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227055	CLOSED	TARRANT	01/20/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227056	CLOSED	TARRANT	01/17/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227057	CLOSED	TARRANT	01/25/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227059	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227364	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227365	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227367	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227368	CLOSED	TARRANT	02/01/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227370	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227371	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227372	CLOSED	TARRANT	01/29/16

CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227373	CLOSEDTARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227374	CLOSEDTARRANT	02/01/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227375	CLOSEDTARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227376	CLOSEDTARRANT	01/28/16

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 Please select a record to proceed.

Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227378	CLOSED	TARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227382	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227383	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227384	CLOSED	TARRANT	01/26/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227385	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227388	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227390	CLOSED	TARRANT	01/26/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227393	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227396	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227397	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227400	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227422	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227423	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227425	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227427	CLOSED	TARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227428	CLOSED	TARRANT	01/28/16

CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227430	CLOSEDTARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227432	CLOSEDTARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227434	CLOSEDTARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227435	CLOSEDTARRANT	01/29/16





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Regulated Entity: City of Fort Worth South East Landfill

Your search returned **167** records.
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Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227436	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227451	CLOSED	TARRANT	02/02/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227458	CLOSED	TARRANT	02/04/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227462	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227473	CLOSED	TARRANT	02/04/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227474	CLOSED	TARRANT	02/04/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227505	CLOSED	TARRANT	02/04/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227506	CLOSED	TARRANT	02/04/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227508	CLOSED	TARRANT	02/03/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227511	CLOSED	TARRANT	02/03/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227512	CLOSED	TARRANT	02/02/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227513	CLOSED	TARRANT	02/02/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227516	CLOSED	TARRANT	02/02/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227517	CLOSED	TARRANT	02/03/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227519	CLOSED	TARRANT	02/03/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227522	CLOSED	TARRANT	01/28/16

CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227523	CLOSEDTARRANT	01/28/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227524	CLOSEDTARRANT	02/03/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227525	CLOSEDTARRANT	02/01/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227526	CLOSEDTARRANT	02/02/16





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Regulated Entity: City of Fort Worth South East Landfill

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Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227527	CLOSED	TARRANT	02/02/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	227528	CLOSED	TARRANT	02/02/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228240	CLOSED	TARRANT	02/05/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228538	CLOSED	TARRANT	02/24/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228539	CLOSED	TARRANT	02/10/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228540	CLOSED	TARRANT	01/22/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228542	CLOSED	TARRANT	02/21/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228543	CLOSED	TARRANT	02/20/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228551	CLOSED	TARRANT	02/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228552	CLOSED	TARRANT	02/07/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228555	CLOSED	TARRANT	02/05/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228557	CLOSED	TARRANT	02/05/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228558	CLOSED	TARRANT	02/22/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228559	CLOSED	TARRANT	02/18/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228560	CLOSED	TARRANT	02/18/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228561	CLOSED	TARRANT	02/18/16

CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228562	CLOSEDTARRANT	02/09/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228564	CLOSEDTARRANT	02/09/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228566	CLOSEDTARRANT	02/25/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228641	CLOSEDTARRANT	02/29/16

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Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228642	CLOSED	TARRANT	02/26/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	228644	CLOSED	TARRANT	02/22/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	230169	CLOSED	TARRANT	03/18/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	230173	CLOSED	TARRANT	03/14/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	231300	CLOSED	TARRANT	04/06/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231419	CLOSED	TARRANT	01/14/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231550	CLOSED	TARRANT	01/14/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231562	CLOSED	TARRANT	01/27/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231569	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231570	CLOSED	TARRANT	01/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231571	CLOSED	TARRANT	02/01/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231573	CLOSED	TARRANT	02/03/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231591	CLOSED	TARRANT	02/05/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231592	CLOSED	TARRANT	02/04/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231600	CLOSED	TARRANT	02/17/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	231601	CLOSED	TARRANT	03/16/16

CITY OF FORT WORTH SOUTH EAST LANDFILL				
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	231602	CLOSEDTARRANT	03/16/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	231628	CLOSEDTARRANT	04/14/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	231911	CLOSEDTARRANT	03/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	232898	CLOSEDTARRANT	05/02/16





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Regulated Entity	Customer	Complaint Tracking #	Status	County	Complaint Received Date
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	233445	CLOSED	TARRANT	05/05/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	233447	CLOSED	TARRANT	05/06/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	WASTE MANAGEMENT SE LANDFILL	233780	CLOSED	TARRANT	05/09/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	233781	CLOSED	TARRANT	05/13/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	233793	CLOSED	TARRANT	05/20/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	236649	CLOSED	TARRANT	06/29/16
CITY OF FORT WORTH SOUTH EAST LANDFILL	CITY OF FORT WORTH	240001	CLOSED	TARRANT	07/18/16

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Complaint Status

Complaint Tracking #: ?	211837
Complaint Received Date:	03/25/2015
Number Complaining:	1
Status: ?	CLOSED
Status Date: ?	02/03/2016
Nature: ?	ODOR
Frequency: ?	CURRENT
Duration: ?	
Media: ?	AIR
Program: ?	AIR QUALITY - HIGH LEVEL
Priority: ?	Within 30 Calendar Days
Effect: ?	GENERAL
Receiving Water Body: ?	
Regulated Entity: ?	CITY OF FORT WORTH SOUTH EAST LANDFILL
County: ?	TARRANT

Description:

THE COMPLAINANT STATED THAT A VILE, DISGUSTING ODOR HAS BEEN FILING THEIR NEGHBORHOOD FOR THE PAST 3 DAYS

Comment:

MORE INFORMATION WILL BE AVAILABLE UPON APPROVAL OF THE INVESTIGATION REPORT

Action Taken:

THIS COMPLAINT HAS BEEN ASSIGNED AND WILL BE FURTHER INVESTIGATED BY AN ENVIRONMENTAL INVESTIGATOR

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Complaint Status

Complaint Tracking #: ? **216902**
Complaint Received Date: 07/07/2015
Number Complaining: 1

Status: ? CLOSED
Status Date: ? 02/04/2016

Nature: ? MUNICIPAL NON-INDUSTRIAL
Frequency: ? CURRENT
Duration: ?
Media: ? WASTE
Program: ? MUNICIPAL SOLID WASTE - HIGH LEVEL
Priority: ? Within 30 Calendar Days
Effect: ? ENVIRONMENTAL

Receiving Water Body: ?

Regulated Entity: ? CITY OF FORT WORTH SOUTH EAST LANDFILL
County: ? TARRANT

Description:

The complainant alleges a strong stench is emanating from the entity intermittently when they are downwind from the entity. When stench occurs, it is most prevalent between 0930-1100. Additionally, the complainant alleges the entity is taller than their permitted height.

Comment:

More information will be available upon approval of the investigation report.

Action Taken:

This complaint has been assigned and will be further investigated by an Environmental Investigator.

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Complaint Status

Complaint Tracking #: ?	225883
Complaint Received Date:	01/06/2016
Number Complaining:	1
Status: ?	CLOSED
Status Date: ?	03/21/2016
Nature: ?	ODOR
Frequency: ?	CURRENT
Duration: ?	ESTIMATED
Media: ?	AIR
Program: ?	AIR QUALITY - HIGH LEVEL
Priority: ?	Within 30 Calendar Days
Effect: ?	GENERAL
Receiving Water Body: ?	
Regulated Entity: ?	CITY OF FORT WORTH SOUTH EAST LANDFILL
County: ?	TARRANT

Description:

COMPLAINANT ALLEGES FOUL ODORS OF ROTTING MATERIAL.

Comment:

MORE INFORMATION WILL BE AVAILABLE UPON APPROVAL OF THE INVESTIGATION REPORT.

Action Taken:

THIS COMPLAINT HAS BEEN ASSIGNED AND WILL BE FURTHER INVESTIGATED BY AN ENVIRONMENTAL INVESTIGATOR.

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Complaint Status

Complaint Tracking #: ? **225882**
Complaint Received Date: 01/08/2016
Number Complaining: 1

Status: ? CLOSED
Status Date: ? 03/21/2016

Nature: ? ODOR
Frequency: ? CURRENT
Duration: ?
Media: ? AIR
Program: ? AIR QUALITY - HIGH LEVEL
Priority: ? Within 30 Calendar Days
Effect: ? GENERAL

Receiving Water Body: ?

Regulated Entity: ? CITY OF FORT WORTH SOUTH EAST LANDFILL
County: ? TARRANT

Description:

COMPLAINANT ALLEGED THAT A FOUL ODORS IS CAUSING NUISANCE. ACCORDING TO THE COMPLAINANT, THE ODOR INCREASE DURING COLD MORNINGS, AND IS DESCRIBED AS DEAD ANIMAL SMELL.

Comment:

MORE INFORMATION WILL BE AVAILABLE UPON APPROVAL OF THE INVESTIGATION REPORT.

Action Taken:

THIS COMPLAINT HAS BEEN ASSIGNED AND WILL BE FURTHER INVESTIGATED BY AN ENVIRONMENTAL INVESTIGATOR.

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Complaint Status

Complaint Tracking #: ?	225890
Complaint Received Date:	01/08/2016
Number Complaining:	1
Status: ?	CLOSED
Status Date: ?	03/21/2016
Nature: ?	ODOR
Frequency: ?	CURRENT
Duration: ?	
Media: ?	AIR
Program: ?	AIR QUALITY - HIGH LEVEL
Priority: ?	Within 30 Calendar Days
Effect: ?	GENERAL
Receiving Water Body: ?	
Regulated Entity: ?	CITY OF FORT WORTH SOUTH EAST LANDFILL
County: ?	TARRANT

Description:

COMPLAINANT ALLEGED THAT A ROTTEN FISH -LIKE AND GAS LIKE ODORS IS CAUSING NUISANCE. ACCORDING TO THE COMPLAINANT, THE ODOR INCREASE DURING COLD MORNINGS, AND IS BEING GOING ON SINCE THE SUMMER.

Comment:

MORE INFORMATION WILL BE AVAILABLE UPON APPROVAL OF THE INVESTIGATION REPORT.

Action Taken:

THIS COMPLAINT HAS BEEN ASSIGNED AND WILL BE FURTHER INVESTIGATED BY AN ENVIRONMENTAL INVESTIGATOR.

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Complaint Status

Complaint Tracking #: ?	240001
Complaint Received Date:	07/18/2016
Number Complaining:	1
Status: ?	CLOSED
Status Date: ?	07/28/2016
Nature: ?	ODOR
Frequency: ?	CURRENT
Duration: ?	
Media: ?	AIR
Program: ?	AIR QUALITY - HIGH LEVEL
Priority: ?	Within 14 Calendar Days
Effect: ?	GENERAL
Receiving Water Body: ?	
Regulated Entity: ?	CITY OF FORT WORTH SOUTH EAST LANDFILL
County: ?	TARRANT

Description:

COMPLAINANT ALLEGING ODOR NUISANCE

Comment:

MORE INFORMATION WILL BE AVAILABLE UPON APPROVAL OF THE INVESTIGATION REPORT

Action Taken:

THIS COMPLAINT HAS BEEN ASSIGNED AND WILL BE FURTHER INVESTIGATED BY AN ENVIRONMENTAL INVESTIGATOR

Investigation Data not Available Until Approved by Management

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EXHIBIT K

Street View Image



View from 194 S. Dick Price Road (Dick Price at Averett Road), facing east

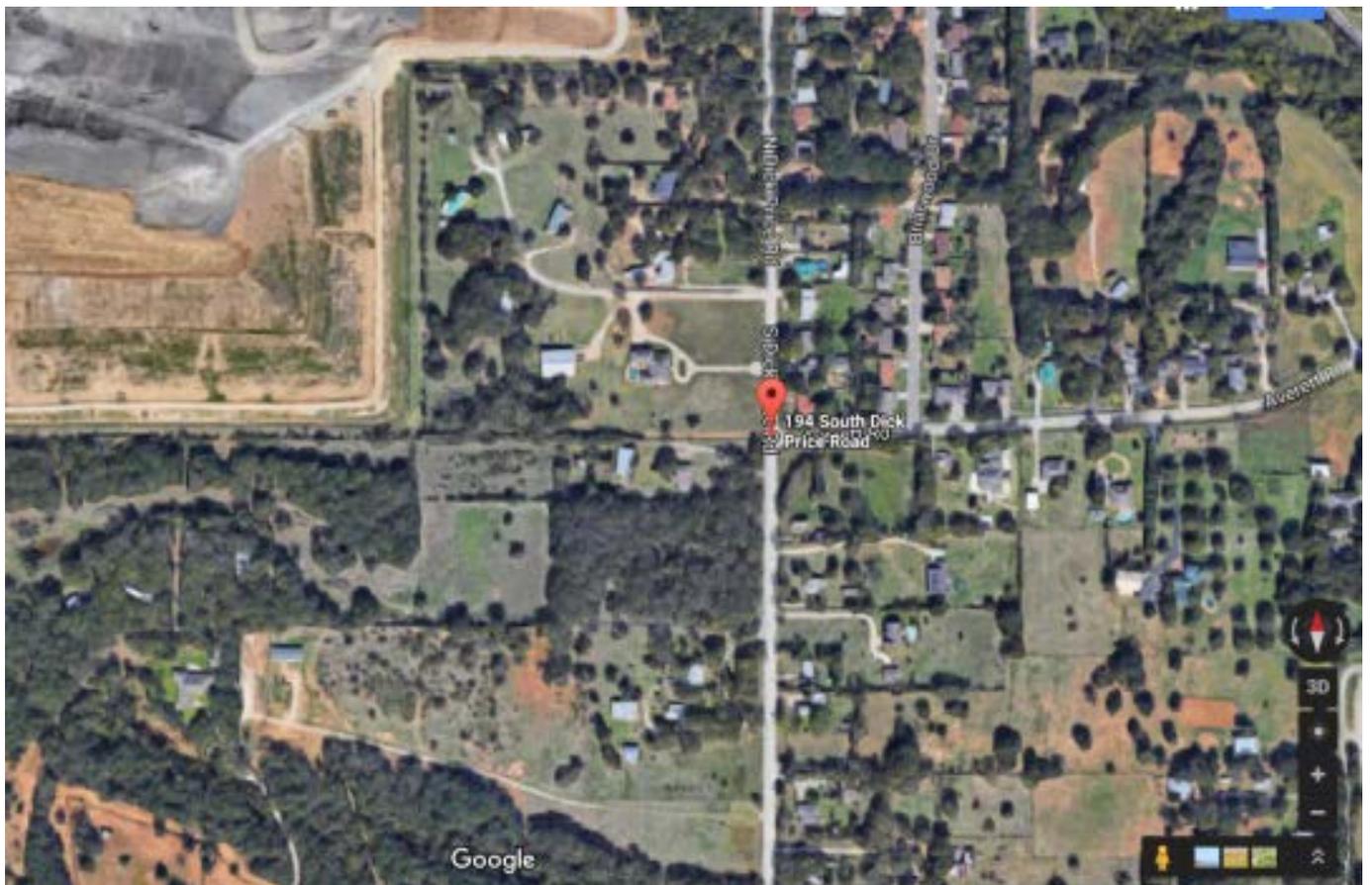
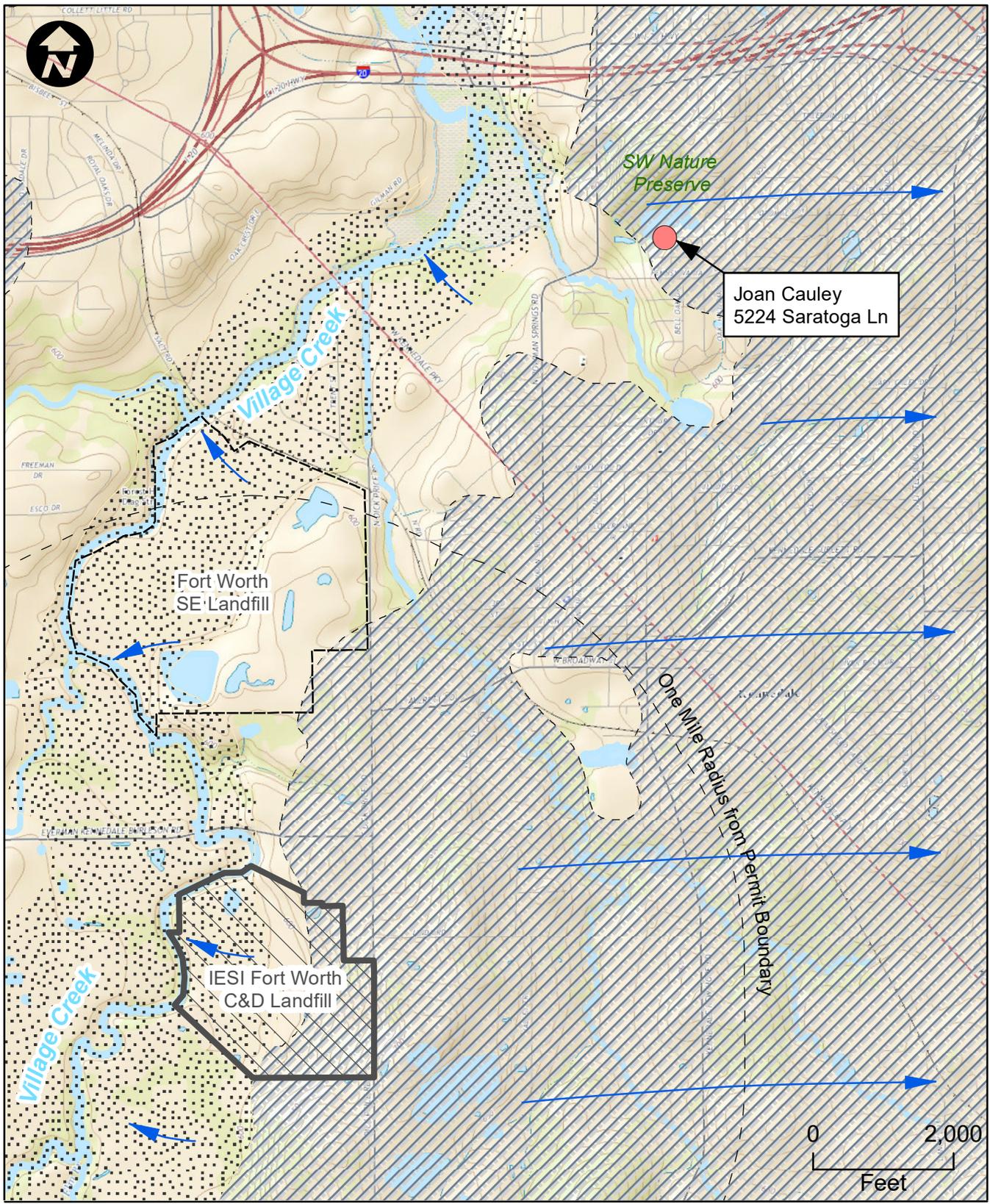


EXHIBIT L

Groundwater Flow Patterns



Legend

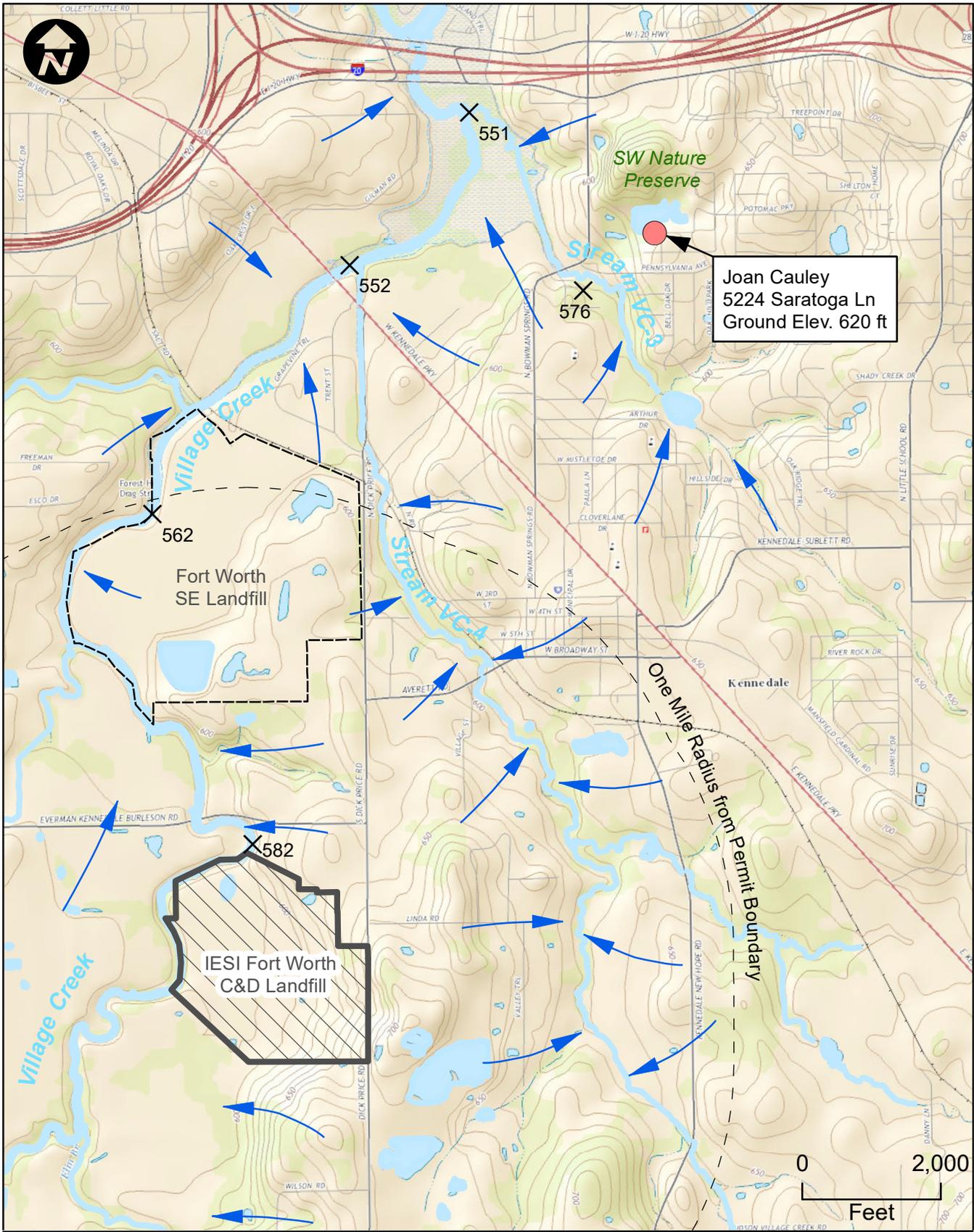
-  Kwb - Woodbine Formation
-  Qal - Alluvium Deposits
-  Direction of Groundwater Flow

Groundwater Flow Patterns

Source: Permit Amendment Application, Part III, Attachment 4, Geology and Geotechnical Report, Section 4.6 and Figure 4A-1 - Geologic Vicinity Map, and Figure 4A-3a - Regional Potentiometric Surface of the Woodbine Aquifer.

EXHIBIT M

Surface Water Flow Patterns



Legend

- X Ground Elevation
- ➔ Direction of Surface Water Flow

Surface Water Flow Patterns

Source: Permit Amendment Application, Part II, Appendix IIA, Drawing IIA-2, General Topographic Map and Part III, Attachment 2, Facility Surface Water Drainage Report, Section 1.3.