

February 24, 2020
Ms. Bridget Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Re: Application by Greenhouse Road Landfill, L.P. for a Major Amendment to
MSW Permit 1599A; TCEQ Docket No. 2019-1534-MSW

Dear Ms. Bohac:

Attached is my response to the issues in the SOAH Hearing requests and Request
for Reconsideration by the Executive Director.



Gary D Brown
3623 Shadow Trail
Houston, Texas
281-687-2972

CC:

Greg Weiss, Operations Manager
Jeffrey S. Reed, Lloyd, Gosselink, Rochelle & Townsend, P.C.
Kenneth J. Welch, P.E., Biggs & Mathews Environmental
Eric Clegg, TCEQ, Technical Staff,
Ryan Vise, TCEQ, External Relations Division
Vic McWherter, TCEQ, Public Interest Counsel
Kyle Lucas, TCEQ, Alternative Dispute Resolution
Shea Pearson, TCEQ, Environmental Law Division
Dwayne Bohac, Texas State House of Representatives, 138
Joan Huffman, Texas State Senate, District 17.

TCEQ DOCKET NO. 2019-1534-MSW

APPLICATION BY	§	
GREENHOUSE ROAD	§	
LANDFILL, L.P.	§	BEFORE THE
FOR	§	TEXAS COMMISSION ON
MSW PERMIT NO. 1599B	§	ENVIRONMENTAL QUALITY

**GARY D BROWN’S RESPONSE TO SOAH HEARING REQUESTS
AND RESPONSE TO MOTION REQUESTS FOR RECONSIDERATION**

Introduction. I request reconsideration of the Executive Director Decision (Hereafter ED) dated 2/10/20 and request issue consideration for the Permit 1599B Contested Case Hearing, property operated by Greenhouse Road Landfill LP. (Hereafter GRL)

My name is Gary Brown. I live at 3623 Shadow Trail, Houston, Tx 77084. My house is on Lot 292, Rolling Green Section II on the East side boundary line/fence of the Greenhouse Road Landfill. My property foundation is less than 50 feet from the GRL permit fence. I am director of the Stop Greenhouse Landfill movement, and a director on the Rolling Green Home Owners Association. I have requested contest case hearings on Permit 1599B on the following dates in the past; 4/23/17, 7/29/18, 1/10/19, 3/28/19, 9/30/19, 10/7/19, 10/12/19, 10/16/19 and 10/18/19, submitted to the Texas Commission on Environmental Quality, (hereafter TCEQ) . After examining the Executive Director’s decision on 9/20/19 and other comments, I have requested a contested case hearing on numerous issues in the Permit 1599B application. I have been granted Affected Person Status under 30 TAC §55.201(c) & 30 TAC §55.203 for a contested SOAH hearing on 1599B.

Background Information. Currently Permit 1599A with modification on 11/01/2000 is the operation Permit granted by TCEQ under 30 TAC § 330.305.70i for the Greenhouse Road Landfill. In the ED, GRL and Office of Public Interest Counsel (Hereafter OPIC) comments, information is submitted regarding the landfill history. I will not dispute this information at this time. However, none of the information discusses the time span of the suggested operation of the landfill as shown in Existing Conditions under 30 TAC §330.63(d)4.

3 LANDFILL UNITS

30 TAC §§330.63(d)(4) and 330.457

The Greenhouse Road Landfill will be permitted to accept only Type IV solid waste and will have standard Subtitle D liners and cover systems for Type IV waste facilities. The current and proposed permit conditions are summarized in Table D-1.

**Table D-1
Greenhouse Road Landfill
Permit Conditions**

	Current Condition (1599A)	Expansion Changes	Proposed Condition (1599B)
Permitted Area	125.42 ac	31.85 ac	157.27 ac
Waste Disposal Unit Area	92.11 ac	30.84 ac	122.95 ac
Buffer / Other Areas	33.31 ac	1.01 ac	34.32 ac
Total Disposal Capacity	9,824,000 cy	7,073,000 cy	16,897,000 cy
Total Remaining Capacity	3,900,000 cy	9,097,000 cy	12,997,000 cy
Remaining Projected Site Life	13 years	23 years	36 years

Note, under current conditions, the landfill will operate to **2030**, and with approval of 1599B, **2053**. TCEQ was responsible for checking the accuracy of the 9,824,000 CY derived from the Settlement agreement.

The chart D-1 was downloaded from the application submission on 11/04/2016, page 10. It is also displayed in the technical complete submission.

REQUEST FOR RECONSIDERATION OF THE ED.

In the ED, GRL and Office of Public Interest Counsel (hereafter OPIC) comments, dated 2/10/2020, all requests for reconsideration by the multiple requests filed were deemed to be not relevant/appropriate. See ED 2/10/20 response Pg 37. Likewise OPIC and GRL stated the same.

“TCEQ Response: These issues are not relevant and material to the decision on this application. Additionally, the Executive Director’s RTC does not address concerns regarding current operations at the facility under 1599A as this issue is outside the scope of TCEQ’s review of the 1599B permit application.”

Of concern is the following ED 2/10/20 response on page 7, as I am not Mr. Greene. If the draft permit is issued, it is incomplete and does not adequately address certain sections of the law such as **30 TAC § 330.61h, 30 TAC § 330.63 and 30 TAC § 330.60.**

Mr. Brown indicated that he resides in close proximity to the proposed facility, stating that his residence is on the east boundary of the Greenhouse landfill, lot 292 in the Rolling Green Subdivision. Based on the address provided in his hearing request, the ED determined that Mr. Greene’s property is located within one mile of the proposed facility. It is likely that Mr. Brown will be affected by the proposed discharge under the draft permit.

Executive Director’s Response to Hearing Requests and
Response to Motions for Reconsideration
Application by Greenhouse Road Landfill, L.P.
MSW Permit No. 1599B

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Rather than belabor each section of the ED in the 2/10/19 submission by the Executive Director who denies all issues reconsideration (restating the 9/20/19 position), I have decided to address the major issues that should be considered for a SOAH hearing. I have not withdrawn any of my issues submitted to TCEQ.

SOAH HEARING ISSUES OF LAW AND FACT FOR CONSIDERATION

The Executive Director, OPIC and Applicant have made reference to the Executive Director’s response to public comment (hereafter RTC) submitted on 9/20/19. From examination of the issues submitted for SOAH approval pending affected status of individuals, some of the RTC issues have been determined to be irrelevant/not appropriate. I will now address by priority which are relevant and should be considered relevant under law and facts, contrary to the analysis submitted to TCEQ to date.

Issue 1 (RTC issue 15 and 24) Does the proposed expansion violate the 2000 Settlement Agreement. It has been stated in the OPIC response “TCEQ was not a party to the settlement agreement in several of the requests.” The footnote 1 on page 7 states the following:

¹ Several comments, hearing requests and requests for reconsideration raise concerns regarding potential violations of a previous settlement agreement. In 1999, G. O. Weiss, Inc. filed an application for a major amendment to MSW permit 1599 for the Facility. Harris County, as well as surrounding residents, requested a contested case hearing on that amendment application. Requestors state that in April 2000, Harris County, G.O.Weiss, Inc. and Rolling Green Subdivision residents entered into a settlement agreement. It is further argued that the Permit 1599A was modified and approved under section 30 TAC § 305.70(i) to implement the provisions of the April 2000 settlement agreement. Therefore, it is argued that the Commission had considered and implemented the previous settlement agreement through modifications to Permit 1599A.

The Office of Public Interest Counsel’s Response to Requests for Hearing and Requests for Reconsideration

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In RTC issue 24, the Executive director stated on pages 33–34:

Response 24:

The TCEQ’s jurisdiction is established by the Texas Legislature, and is limited to the issues set forth in statute and rules. The ED reviewed the Greenhouse Road

Executive Director’s Response to Public Comment
Application by Greenhouse Road Landfill, L.P.
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Landfill, LP expansion application and determined that the application meets all applicable legal and technical requirements. The ED does not have authority to consider agreements made between other entities in the permitting process.

The TCEQ is not a party to the prior settlement agreement and, therefore, cannot comment on the terms that are, or have been, considered by those parties involved in the negotiation of that agreement. This permit would be a separately enforceable instrument from any prior settlement agreement the Applicant may have with neighboring landowners. Any conditions included in the prior settlement agreement would need to be included in the permit application for the ED to consider.

It is true that Executive Director, Jeff Saitas, Texas Natural Resource Conservation Commission(now TCEQ) did not sign the April 2000 settlement agreement between Rolling Green Subdivision, Harris County, and Greenhouse Road Landfill, impacting the approval Permit 1599A. However, the following information is available for examination that shows the Permit 1599A was modified and approved by Executive Director Jeff Saitas under section 30 TAC §305.70(i) to implement the provisions of the April 2000 settlement agreement. He did consider the settlement agreement thru a permit modifications requested/submitted by the landfill operator and his engineer consultants.



**MODIFICATION TO
MUNICIPAL SOLID WASTE PERMIT N^o MSW-1599A
G.O. WEISS, INC.**

Municipal Solid Waste Permit No. MSW-1599A is hereby modified as follows:

Description of Change:

The Site Development Plan is hereby modified to reduce the maximum height of the landfill to 163 feet mean-sea-level (msl); to reduce the maximum height of the 4:1 exterior sideslopes along the east, north, and west boundaries to 136.75 feet msl; to reduce the maximum height of the 4:1 exterior sideslope along the south boundary to 20 feet above existing contour elevations; to construct the 4:1 exterior sideslope along the south boundary of earth fill, i.e., municipal solid waste will not be placed in the exterior berm along the south boundary; to increase the buffer zone along the east boundary to 100 feet wide beginning the transition from the existing 75-foot buffer zone at approximately coordinate N737900; to revise the landscape berm along the east boundary to include a screening berm with landscaping; to relocate the perimeter road to the top of the landfill; to provide access ramps along the 4:1 sideslopes to the boundary lines for monitoring, maintenance activities, and landscape activities; to provide temporary stormwater controls along the east

boundary for approximately 850 feet, then traversing the site in a southwesterly direction discharging into the detention pond until the permanent drainage features along the east, north, and west permit boundaries are constructed; to add a drainage outfall to provide temporary relief to 42.3 acres offsite to the north; to provide a 500-foot buffer zone along the south boundary for the placement of large stockpiles of soil; and to reduce the remaining landfill capacity to 7,721,163 cubic yards. This request was documented by an undated letter received by the TNRCC on August 17, 2000, from Mr. Garry G. Weiss, President, and a second letter, dated October 13, 2000, from Mr. Kenneth J. Welch, P.E., Biggs & Mathews Environmental. Both letters contained applicable supporting documentation.

Revisions to Attachment A: See attached list titled "Class 1 Permit Modification Revisions to SDP" for Greenhouse Road Landfill.

This modification is a part of Permit No. MSW-1599A and should be attached thereto.

APPROVED, ISSUED, AND EFFECTIVE in accordance with 30 Texas Administrative Code Section 305.70(i).

ISSUED DATE:

NOV 01 2000

For the Commission

The **maximum** height of 163 ft MSL, slope four to one, 100 foot buffer zone, landscaping berm, storm water controls, and reduction capacity to 7,721,163 CY, came from the settlement agreement. This modification has been in place for 20 years as an existing Condition. 30 TAC §330.61(a) requires the review of existing conditions of the landfill permit 1599B application. In addition to the site calculations previously mentioned, the following Existing Conditions were reviewed and approved by TCEQ. This information is in the technical complete filing also.

1 EXISTING CONDITIONS SUMMARY

30 TAC §330.61(a)

The Greenhouse Road Landfill is an active 125.42-acre Type IV Municipal Solid Waste facility permitted and operated by Greenhouse Road Landfill, LP. The property owner is Weiss Land and Development, LLC. The facility is located approximately 0.6 miles south of the intersection of Clay Road and Greenhouse Road in Harris County, within the extraterritorial jurisdiction of the City of Houston.

The Greenhouse Road Landfill was originally permitted by the State of Texas in 1983 as Permit No. MSW 1599. The Texas Department of Health issued Permit No. 1599 to G.O. Weiss, Inc. as a solid waste disposal facility in April 1983, with a permit boundary of approximately 61.11 acres. G.O. Weiss, Inc. was issued a permit amendment by the Texas Natural Resources Conservation Commission (Permit No. MSW 1599A) on June 28, 2000 with a permit boundary of approximately 125.42 acres. A permit modification was issued on November 1, 2000, which included revisions to landfill buffer zones, the landfill completion plan, and the surface water drainage system. On August 10, 2006, the permit was transferred to Greenhouse Road Landfill, LP, owner and operator of the Greenhouse Road Landfill. The Greenhouse Road Landfill is operating under the 2000 (1599A) permit requirements and any subsequent modifications or authorizations.

The existing 125.42-acre Greenhouse Road Landfill consists of a total of 92.11 acres of permitted landfill footprint and a total of 33.31 acres of non-waste disposal areas. There are 56.94 acres of existing lined area, corresponding to Sector 1, as shown in Appendix IIA, Drawing IIA.14, which is the active waste disposal area. The south perimeter berm, as included in the November 1, 2000 permit modification, has been constructed. As intermediate cover is placed over areas within the active waste disposal area, intermediate cover erosion and sediment control features are constructed. Areas outside the waste disposal footprint are used for buffer and landfill activities. These include the gate house, entrance road, landfill access road, and surface water drainage structures.

As part of the Permit No. MSW 1599A overall development, surface water drainage facilities have been constructed. Surface water entering the landfill permit boundary, and surface water generated within the landfill permit boundary, is directed to an existing detention pond located in the southwest corner of the permit boundary. An existing outlet structure controls surface exiting the landfill permit boundary which discharges to existing Harris County Flood Control District (HCFCD) Regional Detention Basin (Unit No. U101-01-00). The existing detention pond design features and the surface water peak flow rates exiting the landfill permit boundary is authorized by the HCFCD dated June 8, 1999.

The landfill expansion consists of an area to the west of the existing landfill permit boundary, located on property owned by Weiss Land and Development, LLC, and an expansion area to the north located on property owned by Pearlie Properties, LLC. The

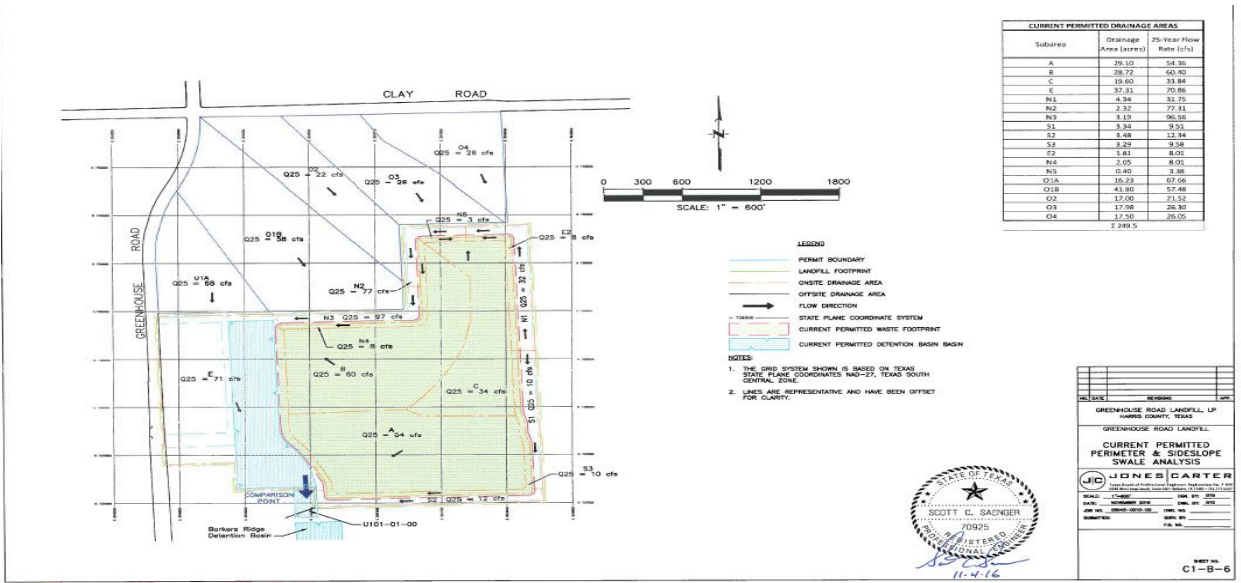
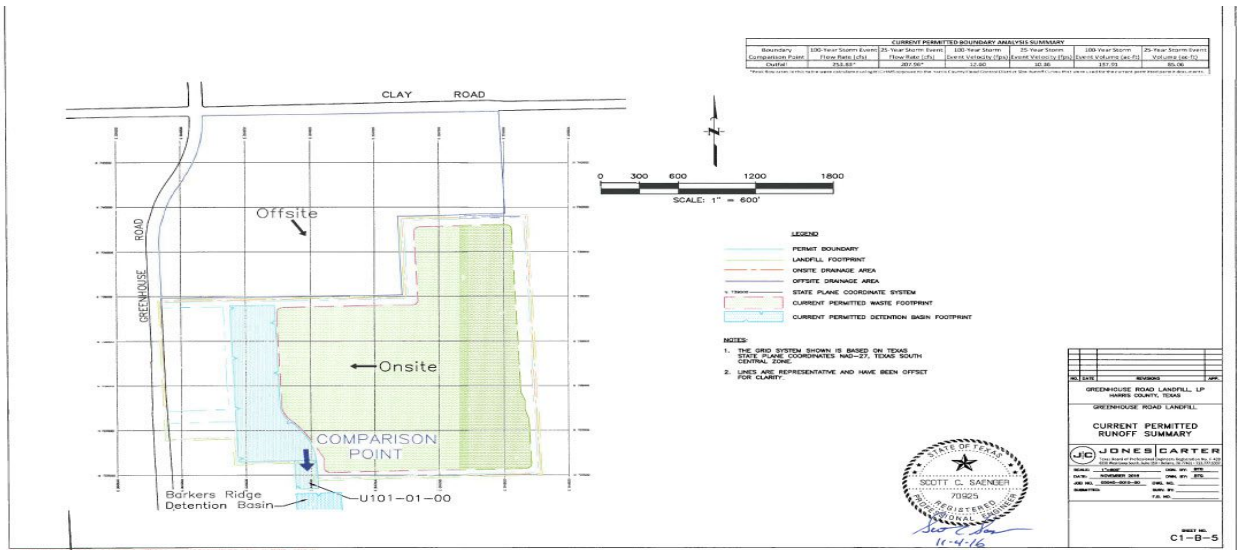
Biggs & Mathews Environmental
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II-1

Greenhouse Road Landfill
Rev. 0, 11/04/2016
Part II

Note: Discussion of 11/01/2000 Jeff Saitas modifications to "buffer zones, landfill completion plan, and surface water drainage system." Also "Surface water entering the landfill permit boundary and surface water generated within the landfill permit boundary is directed to an existing detention pond located in the southwest corner of the permit boundary." Finally, "The south perimeter berm, as included in the November 1, 2000 permit modification, has been constructed."

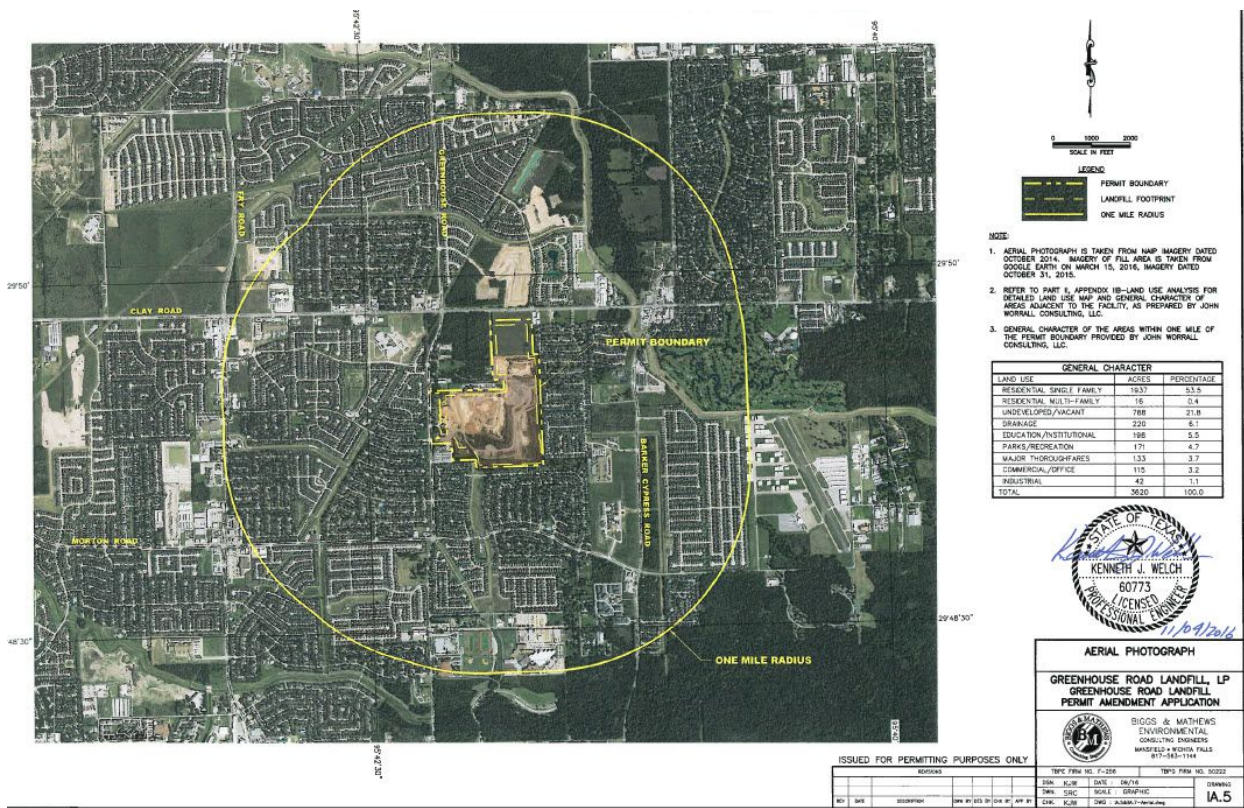
The following submission of current (existing) conditions were approved by TCEQ. They are factually false, as 25 year rainfall events (stormwater) exist which were not diverted to the ditch U101-01 and the southwest detention pond. Rather the water was discharged into subdivisions. This information has been submitted multiple times to TCEQ to include videos, pictures, rainfall gages, and to Harris County Pollution Control Services (hereafter PCSD). See Prints C1-B-5 and C1-B-6 which TCEQ approved and were sealed 11/4/2016.



Design prints not constructed do not satisfy 30 TAC §330.303a or 30 TAC §330.373d.

“The permittee has a duty to comply with all conditions of this Permit (1599A). Failure to comply with any provision (**modification**) is a violation of the permit and statutes under which it was issued and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit amendment application, or an application for a permit for another facility.” **Modified from the draft permit 1599B.**

In attempts to bifurcate the many 30 TAC §330.61 issues under Existing Conditions, TCEQ has evaluated and accepted the land usage analysis and water well location analysis. Both are factually incorrect and should have been returned for revision.



A one mile radius circle from the Latitude and Longitude of the landfill, is 2010 acres, not 3620 acres measured from a one mile estimate from the estimated boundary. The Permit boundary is not correctly displayed. There is problems with well location.

Many water wells are not reliably located, because they were plotted using small-scale maps provided by drillers, and have not been field-checked. The unnumbered wells (Map ID 37) are those wells filed in 1995 that cannot be located within 2.5 minutes longitude/latitude from the information provided by the driller.

Public water supply wells exist within 500 feet of the landfill: HGSD No. 3925 is a M.U.D. 238 water well, the site water supply well (HGSD No. 7747), and a private/industrial supply well (Map ID 10). Refer to Attachment F, Section 2.2 for a discussion of Critical Receptors. Table E-3 lists details of the facility well and other wells. No record exists for the water supply well labeled with Map ID 10.

The wells are not identified in tables as being within 500 feet. Further, the aforementioned statement states "many cannot be located?" One minute equals 4800 ft (0.91 mile) so 2.5 minutes = 2.3 Miles?

In summation: Yes, application 1599B does violate the settlement agreement and Saitas modification of 1599A. It was reviewed and considered by TCEQ. The Executive Director states (2/10/2020) this issue is not appropriate in his restated issue numbers (1, 22, and 40)

Issue 2, Drainage Controls, Stormwater runoff and runon, Discharge of Stormwater, Flooding of Neighborhoods, Berms, Flood Insurance. (RTC issues 18, 18A, 18B, 22, and 27) Has the Applicant satisfied his responsibility to properly design, construct and manage stormwater runoff and runon in a 25 year rainfall event? Has the landfill flooded adjacent neighborhoods? Were Berms constructed as required in the modification of Permit 1599A? Finally, are homeowners buying Flood insurance to handle any stormwater runoff from the landfill in a less than 25 year rainfall event?

30 TAC §330.303a and 30 TAC §330.373d require that the applicant design, construct and manage stormwater runon and runoff in a 25 year rainfall event. The applicant has not met this responsibility. Videos, Pictures, rainfall gage measurements, and inspections sent to PCSD and TCEQ have shown that a rainfall event of less than 25 year status floods adjacent properties. PCSD has warned the Applicant that he must control his stormwater in the inspection 5/4/2017. Ponding has occurred for a period of 30 days at gaps in the berm and between the landfill perimeter fence and berm. Contaminated water has not been properly disposed of.

Ditch U101-01, which is to control runoff from the landfill, drains into South Mayde Creek, which backs up and floods Greenhouse Road. This ditch also flows into the Mayde Elementary, Middle School and High School properties. Addicks Reservoir backs up and ditch U101-01 exasperates the flooding problem.

As part of the filing to modify permit 1599A, Appendix C1-F to C-2-C-53, sealed 11/4/2016, included the following chart which indicates the amount of rain which constitutes a 25 year rainfall event for the landfill area. It also included the 1997 drainage study for stormwater control.

Part III thru appendix C1-E shows a **9 inch rainfall** is a 25 year rainfall event.

12/08/2009

II.2.2 Rainfall Frequency and Duration, Continued

**Hydrologic Regions and Depths
II.2.2.3**

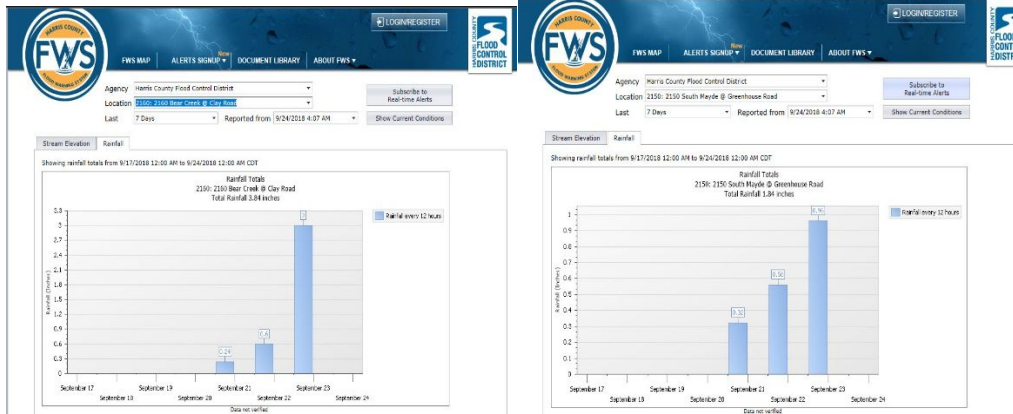
The rainfall depth-duration frequency relationships for Harris County were obtained from a United States Geological Service Report (USGS), Asquith (1988). Due to the size of Harris County (1,756 square miles), the rainfall depth-duration amounts vary across the county. Three hydrologic regions, shown in Exhibit II.2-1, have been established to more accurately define rainfall parameters. Tables 1 through 3 summarize the point rainfall depths for each of the three regions.

Table 1: Harris County Hydrologic Region 1 Rainfall (inches) for Spring Creek, Cypress Creek, Little Cypress Creek, Willow Creek, Addicks Reservoir and Barker Reservoir Watersheds

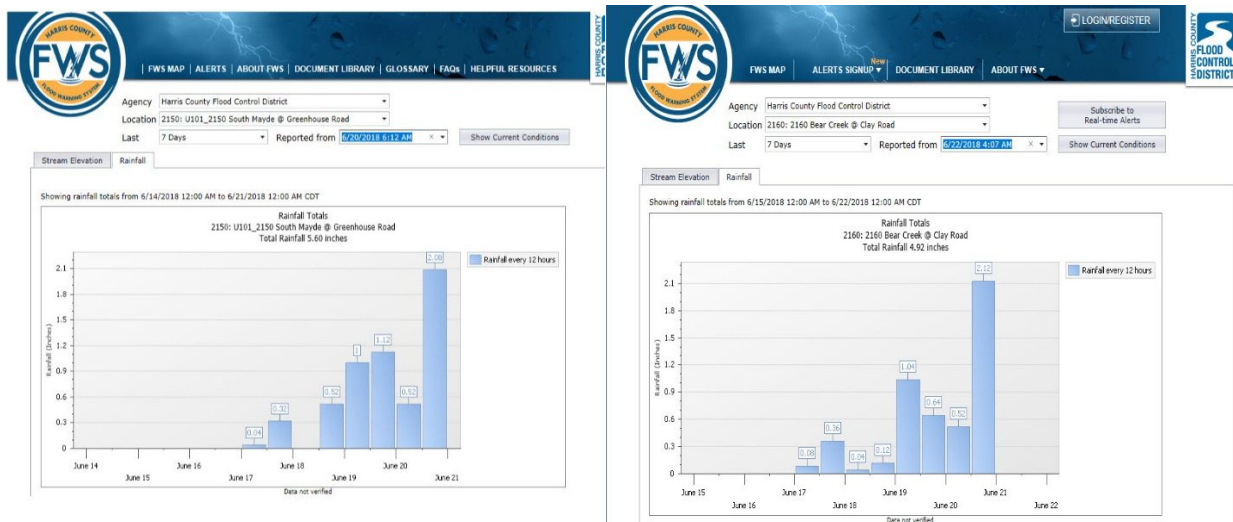
Duration	Exceedance Probability (Frequency)							
	50% (2-Year)	20% (5-Year)	10% (10-Year)	4% (25-Year)	2% (50-Year)	1% (100-Year)	0.4% (250-Year)	0.2% (500-Year)
5 Minutes	0.7	0.9	1.0	1.1	1.2	1.3	1.4	1.5
15 Minutes	1.1	1.4	1.5	1.8	2.0	2.2	2.5	2.7
30 Minutes	1.4	1.8	2.1	2.4	2.7	3.0	3.5	3.9
60 Minutes	1.9	2.5	2.8	3.4	3.8	4.2	4.9	5.5
2 Hours	2.2	3.0	3.5	4.2	4.9	5.5	6.6	7.5
3 Hours	2.5	3.3	3.9	4.8	5.6	6.5	7.8	9.0
6 Hours	2.9	4.0	4.9	6.1	7.2	8.5	10.4	12.2
12 Hours	3.4	4.8	5.9	7.4	8.7	10.2	12.6	14.7
24 Hours	4.1	5.8	7.1	9.0	10.6	12.4	15.2	17.7
2 Days	4.7	6.6	8.1	10.1	11.8	13.6	16.4	18.7
4 Days	5.4	7.6	9.2	11.3	13.1	14.9	17.6	19.8

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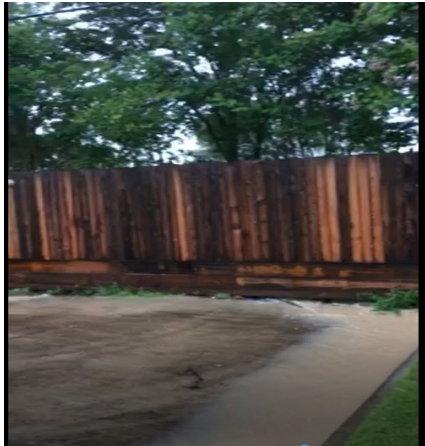
The following Harris County Flood Warning rain gages (2150 & 2160) were used to determine the rainfall amounts, dates, and rates by the Harris County Flood Control District, as the gages are one mile or within one mile of the Greenhouse Road Landfill. An example would be the 3.84 inch rain fall which flooded Shadow Trail Lane ending on September 23, 2018.



Another example would be the 5" rainfall ending 6/21/18.



This 5" rainfall produced the following flooding into Barker Ridge on Log Trail Lane.



Ponding for 30 days behind lot 292 in Rolling Green occurred in December 2018 with rainfall less than 9", the 25 year rainfall event standard. 12/8/18 rain gage 2150 was 5 inches. 12/27/18 rain gage was 2.8 inches. 1/3/20 rain gage was 2 inches. Note the Green Landfill fence.



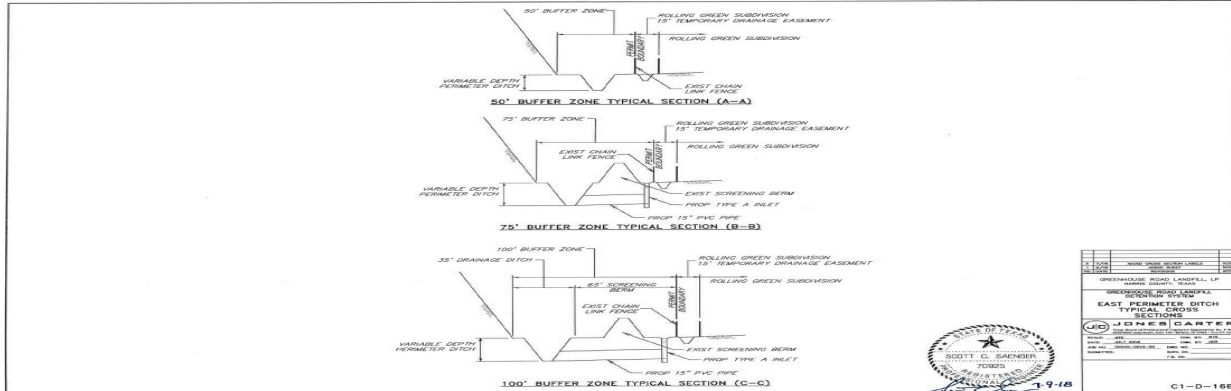
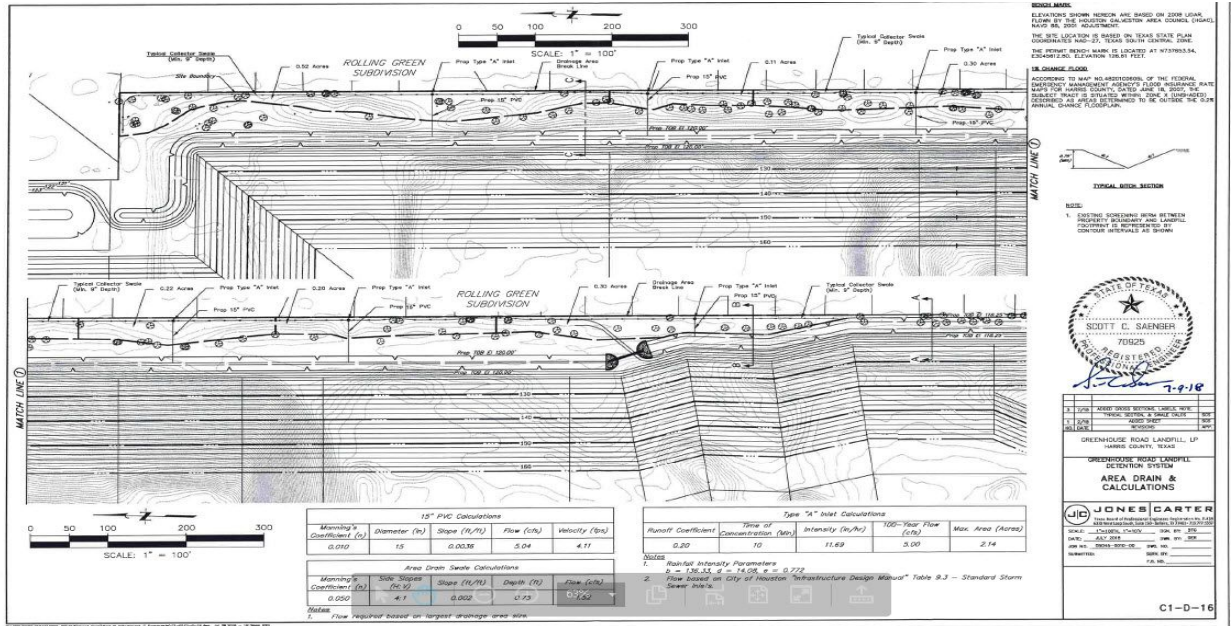
Numerous dated events and multiple photos have been submitted to TCEQ showing noncompliance with stormwater drainage regulations. Contaminated rainfall flooding events also have occurred. Ponding breeds Mosquitos and attracts vectors (rats/mice,etc). PCSD on 5/4/17 stated:

122-124). All the required signage was posted at the entrance (see attached photo 125). Jesse Morales and Greg Kohan with Harris County Engineering Department met us onsite. We met with the Operations Manager, Greg Weiss, and the Site Manager, Mike Parker. I informed them of the complaints and that I needed to conduct a site inspection to determine if the drainage improvements detailed in the SA were made. We went inside an office and reviewed the operational and drainage changes detailed in the SA. Mr. Weiss stated that all the changes were made.

According to the SA, an 8 to 12 foot landscaped berm was supposed to be constructed within 65 feet of the eastern boundary. Mr. Kohan explained that there was no catch system for the water that flows down the east side of the berm and that might be why the properties on the eastern boundary are being flooded.

When the Rolling Green Subdivision was being constructed, a temporary easement was constructed for drainage purposes that is now located between the eastern landfill boundary and the adjacent resident's backyard. When the subdivision was completed, the easement became the property of the residents. Some residents pushed their fence back and filled in the easement while others did not, causing the easement to become blocked. Mr. Weiss stated that the flooding could also be caused due to the easement being blocked. We reminded Mr. Weiss that either way stormwater could only be discharged from their permitted outfall. We then left to conduct the site inspection. Mr. Morales and Mr. Kohan did not stay onsite for the site inspection.

The landfill operator incorrectly stated all 1599A permit modifications “were made.” The landfill operator owns only his one-half of the border easement. After 17 years, the landfill operator has submitted in his 1599B application modifications to design, construct, and manager stormwater drainage on the east boundary to discharge to the SW detention pond per the 1599A Saitas modification. Attached are design drawings were submitted on 7/9/18, C1-D-16 and C1-D-16B.



This is an admission that in order to comply with 30 TAC §330.303a and 30 TAC §330.373d, and this modification must be implemented now. It has not been. The Landfill operator has stated within 180 days of permit 1599B approval in this application, he will construct this design. He has also stated that if 1599B is not approved, he will not construct this required modification per 3/28/19 TCEQ public meeting voice recording. A modification was submitted and approved for landfill gas during the 1599B application period submission. Why did he not include these drainage modifications? Note also in C1-D-16B, the easement is incorrectly shown on the Rolling Green subdivision side only. Further, it is designed to drain water uphill, with no clean out access and check valve. If the landfill is capable of handling a 100 year rainfall flooding event, why is not capable of handling a 5 inch and lower rainfall events?

With respect to berms and flood Insurance, PCSD 5/4/17 report states:

site. The buffer markers indicate these buffer transitions. Investigator Saenz marked a wave point using her GPS at the buffer marker on the northeast corner (see point 25 on attached site map) to later confirm if the buffer was 100 feet. A green chain-link fence and a landscaped berm with gaps are constructed starting from where the buffer transitions from 75 to 100 feet to the northeast corner of the site. The landscaped berm is approximately 5 to 8 feet tall (see attached photos 34, 36, 40-42, and 44). The SA requires the berm to be 8 to 12 feet tall. I informed Mr. Weiss that the berm did not meet the height requirements in the SA. There is no ditch or catch system for stormwater that flows down the east side of the berm. There were areas along the fenceline where the grass was dead and disturbed. It appeared that stormwater had flowed off site from those areas (see attached photos 30, 43, 45, 46, 48).

We detected an intermittent moderately strong sulfur-like odor while we were inspecting the southeast side of the landfill. We traced the odor to the landfill gas vent located furthest south on the eastern side of the landfill (see point 17 on the attached map and photo 29). We observed a large amount of scattered windblown litter along the eastern side of the landfill, approximately 250 feet west of point 21 on the map (see attached photos 58-73). A plastic orange

A picture from the report shows berm height and a berm gap:



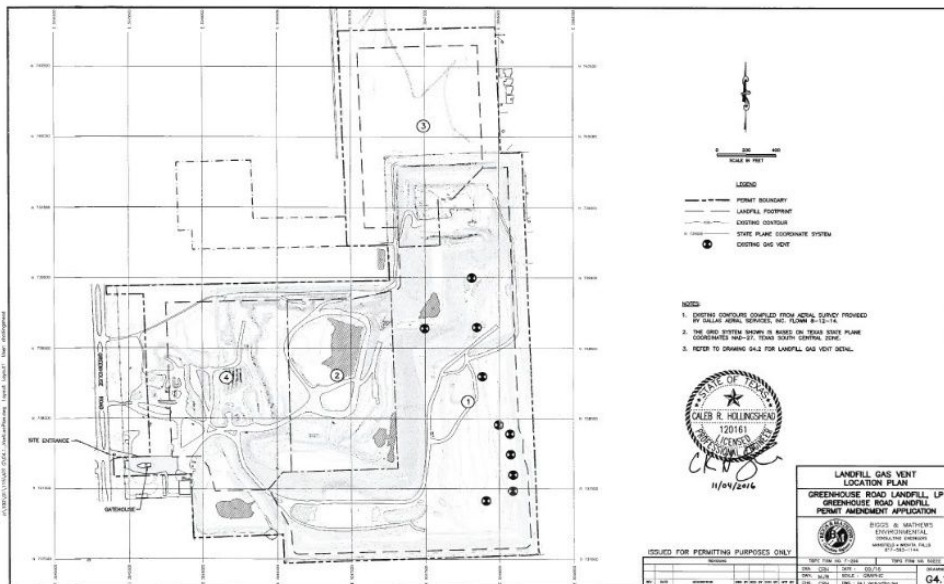
When water flows down the berm and through the berm Gap into Rolling Green landowner's property. Flood insurance has been acquired to protect from loss. Pictures, 3623 Shadow Trl.



In summation, 30 TAC §330.303a and 30 TAC §330.373d require that the applicant design, construct and manage stormwater runoff and runoff for a 25 year rainfall event. The applicant has not met this responsibility. The Executive Director states (2/10/2020) the issue of ponding vectors is not appropriate in his restated issue number 40. It is also stated in Issue number 16 that the 1599B application is appropriate addressing vectors.

Issue 3: Will landfill gas (hereafter LFG) be managed, monitored and controlled during operations as required per 30 TAC §330.37(1)? (RTC issues 5 & 26)

Landfill gases, both Methane and Hydrogen Sulfide gas (H2S) are being generated by the Greenhouse road landfill and being emitted. The odor control management system does not properly address and control the emissions; being inadequate. Testing quarterly methane wells does not provide immediate ability to notify local officials timely for an evacuation. In complaints submitted to Pollution Control Services Davison (PCSD)), actual measure of PPM of hydrogen sulfide gas are not taken. Schools are within one mile of the landfill, with Schmaltz elementary, the closest within 1000 feet. PCSD has detected (H2S) in inspections of the site. Print G4.1 shows the location of the passive PCV pipe/Turbovent monitor LPG vents. Print G1.1 shows the location of the LPG methane wells, and Print G1.2 shows structures within a quarter mile of the landfill.



Schmaltz Elementary grade school should have methane monitors placed in the schools for immediate LPG notification, like the maintenance building, gate building and office building of the GRL. The GRL should be required to provide this methane monitor service. AirCare, an emergency permit 1599A modification during the 1599B application time period, does nothing but spray a chemical substance to cover the smell of H2S. The LPG odor still is emitted into the residential neighborhoods and businesses. In the 2/26/18 inspection report by PCS, the odor control system methodology was disclosed. What if the GRL guesses wrong on wind direction?

We then walked to the east and north side of the landfill. I inquired about the odor control system (OCS) on the southeast side of the landfill (see attached photo 26). He stated that they are taking a new approach to using the OCS. The methane gas vents will be closed on days that the wind is blowing towards the residents (N/NW wind). In addition, when the wind is blowing away from the surrounding residential properties (S/SE wind), the methane gas vents will be open and the OCS will be turned on. I did not detect odors on site.

In summation, 30 TAC §330.37(1) requires that the applicant design, construct and manage LFG to timely notify detection of methane gas, and H2S gas. This is a health issue also. The applicant has not met his responsibility. The Executive Director states (2/10/2020) that this issue is not appropriate in his restated issues numbers 24, 25, 29, and 39)

Issue 4: Have the landfill engineers met the ethics standards of the Texas Professional Engineer Act and has the application complied with 30 TAC §330.57(f)? (RTC issue 29)

The application must be prepared in accordance with the Texas occupation code, Texas Engineering Practice Act 1001, 30 TAC 330.57(f). The landfill engineers, Saenger and Welch are currently under investigation for violations of the Texas Engineer Practice Act. Accepting their work before this investigation is complete should not be done. In documents submitted to date, only conditional incomplete reviews have been approved (independently verify) and the Executive Director stated:

Under 30 TAC § 330.57, engineering and geology information is required to be prepared, sealed, and signed in conformance with the Texas Engineering Practice Act and the Texas Geoscience Practice Act respectively. The review conducted includes a consideration of whether application materials that are required to be submitted under the seal of a professional such as data, hypotheses, and conclusions conform to the applicable professional standards and meet TCEQ rules. Because the ED does not conduct an independent geologic or engineering study or independently verify every representation made in an application, the ED relies on work product prepared, signed, and sealed by accredited professionals.

The ED has preliminarily determined that the application meets the requirements for conformance with the Texas Engineering Practice Act and the Texas Geoscience Practice Act.

Harris County Engineering Department stated an incomplete conditional review on 7/13/16:

HARRIS COUNTY
ENGINEERING DEPARTMENT
PERMIT OFFICE 10555 Northwest Frwy., Suite 120
Houston, Texas 77092
(713) 274-3900

July 13, 2016

Mr. Scott C. Saenger, P.E.
Jones & Carter, Inc.
6330 West Loop South, Suite 150
Bellaire, TX 77401

**SUBJECT: Detention Analysis for 2016 Expansion of Greenhouse Road Landfill;
Unit U101-00-00; Key Map 466M; Pct 3; Project No. 1602240007**

Dear Mr. Saenger:

Harris County and the Harris County Flood Control District (HCFCD) have reviewed the above referenced report. Details of our understanding of the design are given on the attached review memo.

The report includes statements that the project will cause no adverse impact to the receiving waterways in storm events up to and including the 100-year event. The documentation within the report generally supports the conclusions stated by the engineer. Based on the stated conclusions, HCFCD interposes no objection to the referenced report. Please note, this acceptance does not necessarily mean that the entire report, including supporting data and calculations, has been completely checked and verified. However, the report is signed, dated, and sealed by a Professional Engineer licensed to practice in the State of Texas, which therefore conveys the licensed engineer's responsibility and accountability.

If you have any questions or need any additional information, please do not hesitate to contact the reviewers.

Sincerely,


Jesse Morales, CFM
Manager of Permits

Accepting this work before this ethics investigation is complete should not be done.

In summation, 30 TAC §330.57(f) requires that the applicant, landfill engineers, and TCEQ follow the Texas Professional Engineer Act. The Executive Director contends (2/10/2020) that this issue is not appropriate in his restated issue number 23.

Issue 5. Land Use and Traffic: Has application 1599B provided complete factually accurate information under sections 30 TAC §330.61(h) and 30 TAC §330.61(i)? See RTC issues 9, 10, and 12.

Permit 1599B is not compatible with surrounding land uses. From examining Google Earth within one mile of the landfill, major areas have been used for new construction (105 acres) of residential areas and commercial areas. With the 8000 students and school staff at KISD schools and the application residences reported, the area is simply supporting a massive population growth. The landfill, going to six stories high, is not compatible with the existing or future development of the area. The information shown in print 1A.5 is incorrect, as a one mile circle has 2010 acres, not 3620 acres as displayed. See 30 TAC 330.61(h). The growth of this area will exceed 95% utilization before the permit life of 1599A is reached. The Executive Director statement that there is “no rule limit on the size and height of a landfill” is not sound policy. See Print 1A.5 previously displayed in issue one.

The local roads are not adequate for the landfill traffic. Greenhouse road and Saums road flood regularly with less than 25 year rain fall events. Examining the rain gage road history at South Mayde Creek and Greenhouse, Greenhouse road has not been accessible with rainfalls as small as two inches. Greenhouse road was closed for several weeks from the south after Harvey. The only access to the landfill is at Misty Cove and Greenhouse, just north of the Mayde Creek School complex of Elementary and middle Schools. HCFCD ditch U101-01-1 is the only approved permitted storm runoff relief for the landfill. During recent rains, less than a 25 year rainfall event, the drainage ditch has been filled and could not flow south because the South Mayde Creek, a main tributary to the Addicks Reservoir, was full of water, out of its banks. Ditch U101-01-1 water from the landfill only exacerbates the drainage problem, one mile south of the landfill. Basically, this area experiences extreme flooding. The traffic study did not consider this factor.

In summation, in order to properly evaluate land use and traffic under 30 TAC §330.61(h) and 30 TAC §330.61(i), accurate facts need to be submitted in the application. Land use and traffic should have been remitted for reconsideration by the Executive director. The Executive Director states (2/10/2020) that these issues, now 17 and 20, need to be heard by SOAH and developed as such.

Issue 6. Will Permit Application 1599B and applicant comply with 30 TAC §§ 330.139, 330.165(g) and 330.145. Rainwater that touches exposed waste becomes contaminated. (RTC issues 16 and 17)

The landfill has received two violations (6/21/17 and 4/11/18) on blown waste and uncovered waste. When the storm water touches waste, it becomes classified as contaminated waste. Contaminated waste needs special handling and needs to be trucked off-site. Some of the storm water runoff into private property has touched waste and is contaminated storm water. It should be handled properly. Pondered water on the east boundary side (30 days in December 2018/January 2019) has not been handled according to regulations.



As stated in RTC 16 and 17 by the Executive Director:

The ED has preliminarily determined that the application complies with the requirements of 30 TAC §§ 330.139 and 330.145. All representations made in the permit application become enforceable if the permit is issued. If the Landfill is operated in accordance with the SOP, the ED expects that windblown trash and materials along the route to the Landfill will be adequately controlled and picked up.

The applicant has demonstrated with violations that compliance with the regulations must be enforced with inspections and complaints.

In summation, in order to properly evaluate blown waste and cover under 30 TAC §§ 330.139, 330.165(g) and 330.145, violations need to be considered. Past Ponding and contaminated wasted should be discussed. The Executive Director states (2/10/2020) that these issues, now 4 and 5, need to heard by SOAH and developed as such.

Issue 7. Should TCEQ and the Executive Director consider section 30 TAC § 330.367a? RTC bifurcated issues 1,8,9,13,30,and 35

[<<Prev Rule](#)

[Next Rule>>](#)

Texas Administrative Code

[TITLE 30](#)

[PART 1](#)

[CHAPTER 330](#)

[SUBCHAPTER B](#)

[RULE §330.67](#)

ENVIRONMENTAL QUALITY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

MUNICIPAL SOLID WASTE

PERMIT AND REGISTRATION APPLICATION PROCEDURES

Property Rights

(a) It is the responsibility of an owner or operator to possess or acquire a sufficient interest in or right to the use of the surface estate of the property for which a permit is issued, including the access route. The granting of a permit does neither convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit is issued.

Property rights have not been acquired to drain 25 year stormwater into Barker Ridge and Rolling Green Subdivisions. These areas are not detention ponds for GRL. Injury to private property has occurred by a decreasing property values, having to acquire flood insurance, dust, noise, and LPG odors. Landscaping berms and screens have not provided the previous year 2000 aesthetic views from residential lots. Rather, the landscape berms and gaps have provided unauthorized stormwater drainage, and vectors such as mice, rats, mosquitos, skunks, etc. Personal rights have been violated. The deposit of Harvey drywall has generated H2S odors from the landfill. The GRL contends it can control stormwater from a 100 year rainfall but fails in handling rainfall events less than a 25 year rainfall event. The 2007 FEMA map is outdated. Current standard for Harris County construction and new permits requires being able to handle a five hundred year rainfall event. Supplemental detention ponds are also required.

There have been over 700 negative comments on the expansion of permit 1599A, that is 1599B.

In summation, under 30 TAC § 330.367a, in order to properly evaluate property rights, infringements, and permits, the aforementioned violations need to be considered. The Executive Director states (2/10/2020) starting on page 30, that these issues 1,8,9,13,30 and 35, are not appropriate. The TAC regulations state otherwise.

Issue 8, Comment: Does the Executive Director and TCEQ rely on Harris County, residents and businesses to enforce the permit sections it has approved for the safety and health of the impacted residents and businesses? RTC issue 3.

Throughout the 9/20/19 RTC, the Executive Director refers complaints on the upcoming permit 1599B sections to the following:

Individuals are encouraged to report any concerns about suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it may be subject to enforcement action.

Other RTC 9/20/18 issues whereby recommendations to file complaints for 1599A/1599B permit compliance were: 3,4,5,6,7,12,13,14,15,16,17,19,23,30. The recommendation does not mention PCSD who issued two violations, and who have conducted over 40 inspections for LFG. The inspections of LFG H2S were without monitor meters to measure parts per million (PPM).

I have asked, prior to the 3/28/19 public hearing, for an inspection by the TCEQ regional Office, complaining about Odors and Stormwater Drainage. Per incident 304948, investigation 1553308, dated 5/20/19, stated “no offsite discharge was noted at the time of investigation.” The same comment was made regarding odors. My concern is the following: no LPG meters were mentioned, were the LPG turbovents turned off?, and in the 5/4/17 PCSD report, Harris County Engineer Jessie Morales and others could see the offsite drainage problem, did the inspectors inspect the east boundary berm and permit fence line? This inspection found no violations, but did not inspect during a rainfall event. It was preannounced. Odors could dissipate by the time they drove from Pasadena Texas.

In summation, to satisfy the Executive Director’s and TCEQ’s responsibility, they are to protect the Health and Wellbeing of residents of the permits they approve. They need to consider the possibilities of violations of the permit sections they approve, not just state to report them. See 30 TAC § 330.61h, 30 TAC § 330.63 and 30 TAC § 330.60

Compliance History

Under Texas Health and Safety Code §§ 361.084(c) and 361.089(f), and 30 TAC §§ 60.1(a)(1)(A) and 60.3(a)(1), the Commission must consider an Applicant’s compliance history in

⁴ Information about this program may be found at:
<https://www.tceq.texas.gov/agency/decisions/hearings/envequ.html>

making a decision regarding issuance of a permit. Therefore, issue no. 12 regarding Applicant’s compliance history is relevant and material.

First and foremost, I request that permit 1599B amendment expansion of permit 1599A be denied and not approved.

If not so determined, then in summary, the aforementioned eight issues need to be considered. They are relevant for a SOAH hearing on permit 1599B.

1. Settlement Agreement and Existing Conditions.
2. Drainage
3. Odors
4. Texas Professional Engineer Act
5. Land Use and Traffic
6. Blown Waste
7. Property Rights
8. Health and Safety Compliance

It is expected the SOAH hearing will last for a duration of up to six months. The final determination should wait for the investigation results by the Texas State Board of Professional Engineers. All requests for reconsideration should have not been denied.

Submitted by:

A handwritten signature in black ink that reads "Gary D Brown". The signature is written in a cursive, flowing style.

Gary D Brown
3623 Shadow Trail
Houston, Texas
281-687-2972

