



FRITZ, BYRNE, HEAD & HARRISON, PLLC
Attorneys at Law

February 2, 2011

VIA HAND DELIVERY

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk (MC-105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

2011 FEB -2 PM 4:14
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Docket No. 2010-2063-MSW; In the Matter of the Application of
Micro Dirt, Inc. d/b/a Texas Organic Recovery for a Grease Trap
Registration No. 43024

Dear Ms. Castañuela:

Enclosed are an original and eight (8) copies of a Reply of Movants to Responses to Motion to Overturn the Executive Director's Approval of Registration No. 43024 which we respectfully request be filed among the other papers in the above-referenced proceeding.

A copy of the Reply is being forwarded to all parties of interest as set forth below. Thank you for your assistance in this matter.

Very truly yours,

FRITZ, BYRNE, HEAD & HARRISON, PLLC

By: 

Ann M. Devers
Assistant to J. D. Head

JDH/amd
Enclosures
cc: See, Certificate of Service

Value Driven...Client Oriented



DOCKET NO. 2010-2063-MSW

IN THE MATTER OF THE
APPLICATION OF MICRO DIRT,
INC. d/b/a TEXAS ORGANIC
RECOVERY FOR
REGISTRATION NO. 43024

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§
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§
§

2011 FEB -2 PM 4:14
BEFORE THE
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**REPLY OF MOVANTS TO RESPONSES TO MOTION TO OVERTURN
THE EXECUTIVE DIRECTOR'S APPROVAL OF REGISTRATION NO. 43024**

TO THE HONORABLE TCEQ COMMISSIONERS:

COMES NOW, Thomson Family Limited Partnership, H. Philip Whitworth, Jr., Ann Messer, and Julie Moore ("Movants") and files this Reply to Responses to Movants' Motion to Overturn ("MTO") the Executive Directors' November 22, 2010 decision to issue Registration No. 43024 to Micro Dirt, Inc. d/b/a Texas Organic Recovery ("Micro Dirt") and in support thereof respectfully shows the following.

Introduction

Movants, on December 22, 2010, timely filed their MTO the Executive Director's November 22, 2010 decision to issue Registration Number 43024 to Micro Dirt pursuant to 30 T.A.C. § 50.139. Micro Dirt, the Executive Director, and the Office of Public Assistance Counsel all timely filed Responses to Movants' MTO. In accordance with the schedule set out by the General Counsel's Office, Movants now file its Reply to the aforementioned responses. While Movants maintain their positions in the original MTO, set forth below are selected replies to the Responses.

Worst Case Spill or Release

Pursuant to 30 T.A.C. § 50.133(a)(2), the Executive Director may act on an application for a registration if the application meets all relevant statutory and administrative criteria. In its MTO, Movants allege the Texas Commission on Environmental Quality (“TCEQ”) erred in approving Registration No. 43024 because there are insufficient engineering controls to contain a worst case spill in violation of 30 T.A.C. § 330.63(d)(1)(B) and 30 T.A.C. § 330.227. The MTO alleged that with respect to the TCEQ’s worst case spill or release requirements, the registration application of Micro Dirt did not meet all relevant administrative criteria. In the Executive Director’s Response, it is acknowledged that the proposed containment area did not comply with the requirements of § 330.63(d)(1)(B).¹ In fact, in the Executive Director’s conclusion, it is stated “MSW Registration No. 43024 is not compliant with all the requirements of law. Micro Dirt currently does not meet the worst case spill or release requirements.”² However, in the Executive Director’s Response filed January 20, 2011, the Executive Director references documents submitted by Micro Dirt also on January 20, 2011, proposing to modify Registration No. 43024 to address this non-compliance with applicable regulations.

Movants’ position is that the registration application must stand or fall on what was originally submitted to the Executive Director for approval - not a last minute revision

¹ Executive Director Response to MTO, p. 4.

² Executive Director Response to MTO, p. 10.

submitted on the date of the Response to the MTO. The Commissioners must grant the MTO submitted by Movants and remand the application because it did not meet all applicable requirements of TCEQ rules. Should Micro Dirt choose to submit a compliant application, the Executive Director can, after proper notice, consider the registration application again.

Authority of Micro Dirt Under Registration No. 42016

Micro Dirt in its Response states that it is the operator of an existing grease trap process facility authorized by the Commission under Registration No. 42016.³ Furthermore, Micro Dirt claims under existing Registration No. 42016 it may process and accept waste from grease traps. This is patently false. Registration No. 42016 was an approval for a biosolids compost facility, nothing more. Therefore, any processing at the facility would naturally be the composting of grease trap waste. The Chapter 332 composting rules define processing as “actions that are taken to land apply feedstocks or convert feedstock materials into finished compost, mulch or a usable final product. Processing does not include the stockpiling of materials.” 30 T.A.C. § 332.2(47). The processing authorization, i.e., composting, was negated when the Commission denied proposed Permit No. 2320 in 2008. Simply put, a registration for a compost facility does not allow for any other processing except for preparing material for composting. Therefore, Registration No. 42016 currently disallows the processing of grease trap waste. This fact was confirmed in a January 9, 2009 letter from the TCEQ Director of Waste Permits Division to Micro Dirt’s current counsel -

³ Micro Dirt Response to MTO, p. 3.

See, Exhibit 1. Furthermore, the TCEQ complaint report dated December 3, 2008 states in its conclusion that “TRO was hand delivered a letter on August 8, 2008, which was also sent certified mail, stating the continued acceptance of grease trap waste after July 15, 2008 at TRO is unauthorized.” See, Exhibit 2. Movants again point out in this Reply, as they did in the MTO, that public records indicate Micro Dirt has been accepting grease trap waste and grit trap waste after two separate written admonitions from the TCEQ that the facility could not accept grease trap waste. See, Exhibit 3. Movants question, as should the Commissioners, exactly what Micro Dirt is doing with this grease trap waste and grit waste it has been accepting from off-site sources. In view of the pending enforcement action against Micro Dirt for the illegal receipt of 123 loads of grease trap waste in 2008, the TCEQ should investigate whether Micro Dirt is again managing waste without authorization before allowing any operations under either registration.

Micro Dirt in its response asserts that it is authorized to accept grit trap waste under Registration No. 42016. This is incorrect. Registration No. 42016 includes a list of acceptable waste and grit trap waste is no where included therein. See, Exhibit 4.

Financial Assurance

Movants re-urge that the amount of financial assurance included in the registration application of Micro Dirt is insufficient. Movants cannot imagine a scenario whereby \$450 would cover the cost of decontamination and removal of eight 18,000 gallon steel tanks from the facility. With respect to financial assurance for Registration No. 42016, the facility

clearly has large stockpiles of combustible material used in the composting process. The Financial Assurance Section of the TCEQ has informed Movants that it has no record of any financial assurance with respect to this registration for either Roy Eugene Donaldson, Micro Dirt, or Texas Organic Recovery. Micro Dirt asserts in its Response at page 8 that “the application for the existing registration included its own closure and post-closure calculation.” Micro Dirt claims it has provided the Commission with financial assurance for Registration No. 42016. Movants are in possession of the 1998 application and there are no such calculations. See, Exhibit 5. Based on the totality of the evidence, Movants assert Micro Dirt is operating illegally by not having financial assurance for Registration No. 42016.

Financial assurance has been required since January 4, 2005⁴ and pursuant to 30 T.A.C. § 37.31(a) the financial assurance mechanism must be submitted to the TCEQ. Movants, contrary to the positions of the Executive Director and Micro Dirt, continue to insist that allowing these proposed activities under the new registration at a facility without financial assurance for addressing combustible materials is ill advised and unwarranted. While the Executive Director and Micro Dirt attempt to separate and compartmentalize the two registrations, the fact is that Registration No. 43024 authorizes effluent from the processing of grease trap waste to be utilized in the composting process, which entails

⁴ 30 T.A.C. § 328.5(c); 30 T.A.C. § 332.34(15).

combustible materials. This should not be allowed in the absence of financial assurance for the combustible material used in the composting process.

Composting With Effluent

The Public Interest Counsel in its Response points out that 30 T.A.C. § 330.207(a) provides that “all liquids resulting from the operation of solid waste facilities shall be disposed of in a manner that will not cause surface water or groundwater pollution.” Although this Commission has already determined, in the proceeding rejecting MSW Permit No. 2320, Micro Dirt failed to meet its burden of proof regarding protection of groundwater, Registration No. 43024 would allow grease trap effluent to be utilized in the composting process. The liner “approved” in the 1998 application was not subjected to the scrutiny of a contested case hearing. In the scrutiny of a contested case hearing, it was found that the liner was insufficient to protect groundwater because the Applicant failed to prove up key technical elements for liner approval, such as 30% passing the sieve test. Moreover, there were no permeability tests conducted in conjunction with the 1998 application, which is a requirement for liner approval. The argument in various Responses that Registration No. 43024 does not authorize composting, but merely refers to operations under Registration No. 42016 does not wash. The TCEQ rules require that all liquids resulting from the operation of a solid waste facility shall be disposed of in a manner that will not cause surface water or groundwater pollution and the Commissioners have already found that there is inadequate groundwater protection at this site. Authorizing the use of untested grease trap effluent, with

no water quality parameters in the composting process is a clear violation of 30 T.A.C. § 330.207(a) and warrants denial of the registration.

Fire Protection

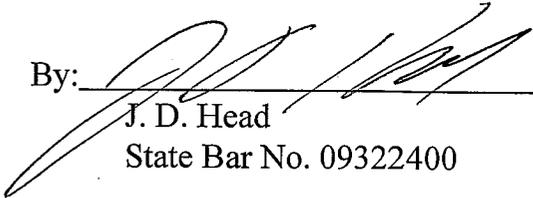
Movants disagree with Micro Dirt's Response relating to fire protection and the amount of water available. There is no guarantee that there will be sufficient water in the surface impoundment in a time of severe drought, regardless of what the water balance may provide, Movants would also point out that even with an adequate supply of water, this is insufficient fire protection. It is common knowledge that a fire involving fats, oils and greases, which is what will be processed by Micro Dirt under Registration No. 43024, cannot and never should be fought with water for fire suppression. Placing water on a grease fire only exacerbates the conflagration. Because Micro Dirt has not shown it has adequate capabilities to fight a fire involving fats, oils and greases, which it will be processing in its proposed Type V facility, the fire protection plan is insufficient.

Conclusion

For the reasons set forth in Movants' MTO and its Reply to Responses, Movants respectfully request the Commissioners to grant the MTO and remand the application for Registration No. 43024 to the Executive Director.

Respectfully submitted,

FRITZ, BYRNE, HEAD & HARRISON, PLLC
98 San Jacinto Blvd., Suite 2000
Austin, TX 78701
TEL: 512/476-2020
FAX: 512/477-5267
EMAIL: jdhead@fbhh.com

By: 

J. D. Head

State Bar No. 09322400

ATTORNEYS FOR MOVANTS

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the foregoing document was served on this 2nd day of February, 2011, via U.S. First Class mail to the following:

Mr. Roy Eugene Donaldson, II, Director
Micro Dirt, Inc. d/b/a Texas Organic
Recovery
15500 Goforth Road
Creedmoor, TX 78610-3975

Mr. Robert H. Thonhoff, Jr., P.E.
Thonhoff Consulting Engineers, Inc.
1301 S. Capital of Texas Hwy., Suite
A236
West Lake Hills, TX 78746-6582

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Austin, TX 78711-3087

Mr. Randal B. Wilburn
Attorney at Law
3000 South IH 35, Suite 150
Austin, TX 78704

EXHIBIT 1

Handwritten: 0-10-10-10
MCI 143

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 9, 2009

Mr. Randall B. Wilburn
Attorney At Law
3000 South IH 35, Suite 150
Austin, Texas 78704

Re: Texas Organic Recovery Compost Facility; Registration No. 42016

Dear Mr. Wilburn:

I am writing in response to your letter to Mr. Dan Eden dated December 24, 2008 and your letter dated December 18, 2008 addressed to Mr. Barry Kalda, also with the Texas Commission on Environmental Quality, in which you stated that Texas Organic Recovery (TOR) would begin operations as proposed. The operation proposed was described as processing grease trap waste through a heating process, removing the grease and oil, and adding the remaining water and solids to the composting process. TOR is not authorized to conduct the proposed activity and will be subject to enforcement if it proceeds without authorization.

[TOR was authorized by registration to receive grease trap waste to process by composting until that authorization was affected by amendments made to Texas Health and Safety Code §361.428 in 2003. TOR applied for a permit to continue composting grease trap waste as required, but that application was denied by the Commission on May 21, 2008. TOR was required to cease the operation for which it applied by the corresponding uncodified law adopted in H.B. 7, § 8.02 (78th Legislature, 3rd Special Session, 2003). The provisions in TOR's registration related to receiving grease trap waste for composting were invalidated upon denial of the permit application.] *

As we discussed in our meeting, rule 30 TAC §332.3(a)(3) requires a permit to compost grease trap waste which is defined to include solids resulting from dewatering processes. The rules do not expressly address what all types of processes would be considered to be "dewatering processes" or whether materials could be separated by some other process and not be considered grease trap waste subject to this prohibition. Regardless of whether the material TOR is proposing to compost would still be considered to be grease trap waste, TOR's existing registration does not authorize TOR to process grease trap waste as proposed. TOR would be required to obtain a registration or permit in accordance with the Chapter 330 rules to process grease trap waste as proposed and provide a technical justification to support its position that the material would no longer be grease trap waste. If the commission is persuaded that the processed material would no longer be grease trap waste, any authorization issued would set specifications for processed material to meet before it could be composted under a registration.

Mr. Randall B. Wilburn
Page 2
January 9, 2009

Please feel free to call me at (512) 239-6787 or Steve Shepherd at (512) 239-0464 if you have any questions or want to discuss this matter further.

Sincerely,



Jacqueline S Hardee, P. E., Director
Waste Permits Division
Texas Commission on Environmental Quality

cc: Mr. Barry Kalda, TCEQ -- Region 11
Ms. Patty Reeh, Regional Director, TCEQ -- Region 11

EXHIBIT 2

TCEQ Complaint Report

12/03/2008
10:49:48AM**COPY**

Incident No: 113063
 Media Type: Waste
 Start Date: Unknown
 Received Date: 07/30/2008
 Method : PHONE

Staff Member: KROECKER
 Status: Closed
 Status Date: 12/03/2008
 Priority: Within 30 Calendar Days

Regulated Entity: Texas Organic Recovery
 RN100628288

Address: 15500 Goforth
 Kyle, Travis County, TX 78640

Physical Location: 3.5 MILES SE OF CREEDMOOR MAILING ADDRESS 7101 US HWY 290 W STE 325

Responsible Party: Vicki Alexander
 Address: . .
 (0)0-

Title:

Number Complaining: 1
 Frequency: Current
 Alleged Source: Texas Organic Recovery

Program Group: Municipal Solid
 Waste - High Level

Nature: Mswnonindu
 Effect: General

Initial Problem:

Complainant alleges that Texas Organic Recovery is continuing to accept grease trap waste beyond July 15th, 2008, which is the date they were no longer authorized to accept it.

Action Taken / Closure Comments:

INTRODUCTION

This investigation originated from a telephone complaint received by the TCEQ Austin Region Office on July 30, 2008. The complainant alleged that Micro Dirt Inc. DBA Texas Organic Recovery was continuing to accept grease trap without the proper authorization.

GENERAL FACILITY INFORMATION

Texas Organic Recovery (TOR) is located at 15500 Goforth Road in Kyle (Travis County), Texas. TOR leases 15.23 acres out of a 284.924 acre tract of land owned by Vicki Alexander. The facility had been operating under an active Municipal Solid Waste (MSW) Registration No.: 42016, which allowed the facility to compost domestic septage and grease trap waste.

TOR accepted grease trap waste from approximately 15-20 independent liquid waste haulers, with the majority of grease trap waste being hauled to the site by TOR trucks.

BACKGROUND

Due to a rule change in Title 30 of the Texas Administrative Code (TAC) Chapter 332, TOR was required to apply for a permit. The rule change required any facility commercially composting grease trap waste apply for a MSW permit by September 2007. TOR submitted their permit application to the TCEQ MSW Permitting Section in January 2004. The permit, MSW Permit No. 2320, would have authorized TOR to compost municipal sewage sludge, septage, grease trap waste, and positively sorted material (paper, cardboard, wood, and organic food matter). The TCEQ referred the permit application to the State of Administrative Hearings (SOAH) for a contested-case hearing in December 2005. A preliminary hearing was held in February 2006. TOR submitted an amendment to their application to the TCEQ in June 2006. In March 2007, the TCEQ Executive Director issued a preliminary decision recommending the issuance of the permit for the amended application and

TCEQ Complaint Report

12/03/2008
10:49:48AM

issued a final draft permit. In August 2007, a second preliminary hearing was held and, in September 2007, an evidentiary hearing was conducted. On May 23, 2008, the TCEQ denied the issuance of MSW Permit No. 2320. TOR filed a motion for rehearing, which was overruled by operation of law on July 14, 2008. TOR had to cease accepting grease trap waste for composting purposes on July 15, 2008.

TOR filed a lawsuit against the TCEQ on July 29, 2008, seeking a review of the agency's decision. This lawsuit was later withdrawn by TOR.

INVESTIGATION

On August 8, 2008, TCEQ Investigators Kathy Roecker and Chris Wiatrek conducted an on-site complaint investigation at TOR. The investigators arrived on-site at 13:55 to conduct the unannounced investigation. The investigators met with Mr. Mark Van Sickle, General Manager, to discuss and investigate the complaint. While on-site, Kathy Roecker and Chris Wiatrek observed the site and reviewed records.

Based on the records reviewed during the August 8, 2008 investigation, TOR accepted approximately 87 loads of grease trap waste from 16 independent hauliers between the dates of July 15, 2008 and August 8, 2008. TOR delivered approximately 36 loads of grease trap waste to the site between the dates of July 15, 2008 and August 8, 2008.

ADDITIONAL INFORMATION

TOR submitted a registration modification to the TCEQ MSW Permitting Section in October 2008. The modification is requesting approval for TOR to separate the fats, oils, and grease from the water and utilize the water for composting. The fats, oils, and grease would be recycled. The modification also includes new Standard Operating Procedures (SOPs). The TCEQ MSW Permitting Section is in the process of reviewing the registration modification.

TOR (Regulated Entity No. RN100628288) has an average compliance history rating.

CONCLUSION

TOR was hand-delivered a letter on August 8, 2008, which was also sent certified mail, stating the continued acceptance of grease trap waste after July 15, 2008 at TOR, is unauthorized. A violation of Title 30 of the Texas Administrative Code (TAC) Chapter 332.3(a)(3) is being alleged. This case is being referred to the TCEQ Enforcement Division for formal enforcement proceedings. A Notice of Enforcement (NOE) was sent to TOR on December 4, 2008, as a result of this investigation.

TOR has not been accepting grease trap waste for composting purposes since the August 8, 2008 investigation.

The complainant was notified by letter dated December 4, 2008, as to the results of this investigation.

Investigation #: 703318

EXHIBIT 3

Report - Liquid Waste Hauler Manifests for SOUTHWASTE SERVICES, INC. (SOUTHWASTE - PFLUGERVILLE) Records: from Nov 1, 2009 to Dec 1, 2009 Report Generated: Apr 22, 2010 2:02 PM							
Date	Generator	Address	Volume (Gal.)	Waste	Vehicle	Disposal	Receiver
Nov 2, 2009	JACK IN THE BOX (JACK IN THE BOX #907)	1151 AIRPORT BLVD	1500	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 2, 2009	JACK IN THE BOX (JACK IN THE BOX #907)	1151 AIRPORT BLVD	1500	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 2, 2009	JACK IN THE BOX (JACK IN THE BOX #869)	1000 E 41ST ST BLDG K	1250	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 2, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (CANYON CREEK ELEMENTARY)	10210 EMBER GLEN DR	1000	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 2, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (LIVE OAK ELEMENTARY)	8607 ANDERSON MILL RD	500	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 3, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (CANYON VISTA MIDDLE)	8471 SPICEWOOD SPRINGS RD	800	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 3, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (SPICEWOOD SPRINGS ELEMENTARY)	11601 OLSON DR	500	Grease		Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
	ROUND ROCK INDEPENDENT						WHOLE EARTH

Nov 3, 2009	SCHOOL DISTRICT (LAUREL MOUNTAIN ELEMENTARY)	10111 D K RANCH RD BLDG D	1000	Grease	X49-910	Disposed	ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 3, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (PURPLE SAGE ELEMENTARY SCHOOL)	11801 TANGLEBRIAR TRL	800	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 3, 2009	LOOP 360 WATER SUPPLY CORPORATION (LOOP 360 WTP)	4408 LONG CHAMP DR BLDG L	7000	Other	377-34Y	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 4, 2009	CITY OF AUSTIN, FLEET SERVICES (TODD LANE SERVICE CENTER)	4108 TODD LN UNIT A	142	Grit	31N-PT6	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 4, 2009	CITY OF AUSTIN, FLEET SERVICES (TODD LANE SERVICE CENTER)	4108 TODD LN UNIT A	7000	Grit	388-28Z	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 6, 2009	CITY OF AUSTIN, AWU (DESSAU WWTP)	1601 FISH LN	7000	Sludge	377-34Y	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 6, 2009	CITY OF AUSTIN, AWU (DESSAU WWTP)	1601 FISH LN	7000	Sludge	377-34Y	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 8, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (FOREST NORTH ELEMENTARY)	13414 BROADMEADE AVE	750	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 9, 2009	HEB FACILITY MANAGEMENT (HEB AUSTIN 08 #45)	101 W OLTORF ST	1250	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
	SPAGHETTI						WINDERMERE

Nov 9, 2009	WAREHOUSE ITALIAN GRILL (SPAGHETTI WAREHOUSE #03)	117 W 4TH ST	1500	Grease		Disposed	UTILITY COMPANY (WINDERMERE WWTP)
Nov 9, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (CARAWAY ELEMENTARY)	11104 OAK VIEW DR	1000	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 9, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (DEER PARK MIDDLE)	8849 ANDERSON MILL RD	1500	Grease	X49-910	Disposed	MICRO DIRT, TEXAS ORGANIC RECOVERY
Nov 9, 2009	ROUND ROCK INDEPENDENT SCHOOL DISTRICT (JOLLYVILLE ELEMENTARY)	6720 CORPUS CHRISTI DR	1000	Grease	X49-910	Disposed	MICRO DIRT, TEXAS ORGANIC RECOVERY
Nov 10, 2009	LOST CREEK MUD (LOST CREEK WWTP)	6104 TURTLE POINT DR	7000	Sludge	448-39Z	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 10, 2009	LOOP 360 WATER SUPPLY CORPORATION (LOOP 360 WTP)	4408 LONG CHAMP DR BLDG L	7000	Other	448-39Z	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 10, 2009	VILLAGE PARK AT THE ARBORETUM	9306 GREAT HILLS TRL	2000	Grease	17S-KB5	Disposed	MICROGY, INC.
Nov 11, 2009	CITY OF AUSTIN, PARKS AND RECREATION DEPT (JIMMY CLAY GOLF COURSE)	5400 JIMMY CLAY DR 78744	100	Grease		Disposed	MICROGY, INC.
Nov 13, 2009	HORNSBY BEND UTILITY COMPANY, INC. (AUSTIN'S COLONY WWTP)	14517 1/2 LIPPINCOTT ST	7000	Sludge	448-39Z	Disposed	MICRO DIRT, TEXAS ORGANIC RECOVERY
Nov	CITY OF AUSTIN, SOLID	10108 FM 812 RD			377-		WINDERMERE UTILITY

13, 2009	WASTE SERVICES (FM 812 LANDFILL)	78719	6000	Other	34Y	Disposed	COMPANY (WINDERMERE WWTP)
Nov 14, 2009	TRAVIS COUNTY MUD #4 (TRAVIS COUNTY MUD #4)	3201 PORTOFINO RIDGE DR 78746	7000	Sludge	448-39Z	Disposed	MICRO DIRT, TEXAS ORGANIC RECOVERY
Nov 15, 2009	TRAVIS COUNTY MUD #4 (TRAVIS COUNTY MUD #4)	3201 PORTOFINO RIDGE DR 78746	4000	Grit		Disposed	MICRO DIRT, TEXAS ORGANIC RECOVERY
Nov 15, 2009	TRAVIS COUNTY MUD #4 (TRAVIS COUNTY MUD #4)	3201 PORTOFINO RIDGE DR 78746	7000	Sludge	448-39Z	Disposed	MICRO DIRT, TEXAS ORGANIC RECOVERY
Nov 17, 2009	CITY OF AUSTIN, AWU (ONION CREEK WWTP)	10514 1/2 RIVER PLANTATION DR	7000	Sludge	179-93Z	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 17, 2009	STUBB'S BARBEQUE	803 RED RIVER ST	100	Other	34J-YL5	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 17, 2009	QUIZNO'S	801 W 38TH ST UNIT 110	40	Grease		Disposed	MICROGY, INC.
Nov 19, 2009	CROSSROADS UTILITIES	6801 1/2 DALLAS DR	4700	Grit	17S-KB5	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 19, 2009	LOST CREEK MUD (LOST CREEK WWTP)	6104 TURTLE POINT DR	7000	Sludge	W89-348	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 19, 2009	JACK IN THE BOX (JACK IN THE BOX #848)	8630 N LAMAR BLVD	1250	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 19, 2009	JACK IN THE BOX (JACK IN THE BOX #802)	2552 GUADALUPE ST	2000	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO

							COMPOST)
Nov 19, 2009	JACK IN THE BOX (JACK IN THE BOX #865)	6419 AIRPORT BLVD	1000	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 19, 2009	JACK IN THE BOX (JACK IN THE BOX #907)	1151 AIRPORT BLVD	1500	Grease	X49-910	Disposed	WHOLE EARTH ORGANIC COMPOSTING (TEXAS TURBO COMPOST)
Nov 19, 2009	DELL (DELL BRAKER K)	11550 STONEHOLLOW DR	4400	Grease	34J-YL5	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 19, 2009	PLUCKERS (PLUCKERS #2)	9070 RESEARCH BLVD SB UNIT 201-C	2000	Grease	17S-KB5	Disposed	MICROGY, INC.
Nov 20, 2009	GREEN SHORES, AWR SERVICES (GREEN SHORES WWTP)	7625 OAK SHORES	4700	Sludge	17S-KB5	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 23, 2009	CITY OF AUSTIN, AWU (WILD HORSE RANCH WWTP)	10621 BLUE BLUFF RD	7000	Sludge	W89-348	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 23, 2009	LCRA (LAKE POINTE WWTP)	3100 NAPA DR	7000	Sludge	377-34Y	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 23, 2009	HAN YANG MARKET	6808 N LAMAR BLVD BLDG A UNIT 110	1000	Grease	17S-KB5	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 23, 2009	TRAVIS COUNTY MUD #4 (TRAVIS COUNTY MUD #4)	3201 PORTOFINO RIDGE DR 78746	7000	Wastewater (Sanitary)	377-34Y	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
Nov 25, 2009	WASTE MANAGEMENT (AUSTIN COMMUNITY LANDFILL)	9900 GILES LN	7000	Wastewater (Sanitary)	17S-KB5	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)
	CITY OF						CITY OF

Nov 25, 2009	AUSTIN, AWU (HARRIS BRANCH WWTP)	11800 1/2 LANSDOWNE RD 78754	7000	Sludge	179- 93Z	Disposed	AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 25, 2009	CITY OF AUSTIN, AWU (HARRIS BRANCH WWTP)	11800 1/2 LANSDOWNE RD 78754	7000	Sludge	179- 93Z	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 25, 2009	CITY OF AUSTIN, AWU (HARRIS BRANCH WWTP)	11800 1/2 LANSDOWNE RD 78754	7000	Sludge	X50- 915	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 25, 2009	CITY OF AUSTIN, AWU (HARRIS BRANCH WWTP)	11800 1/2 LANSDOWNE RD 78754	7000	Sludge	X50- 915	Disposed	CITY OF AUSTIN, AWU (WALNUT CREEK WWTP)
Nov 25, 2009	CITY OF AUSTIN, SOLID WASTE SERVICES (FM 812 LANDFILL)	10108 FM 812 RD 78719	7000	Other	179- 93Z	Disposed	WINDERMERE UTILITY COMPANY (WINDERMERE WWTP)

EXHIBIT 4

Registration No. 42016



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

REGISTRATION FOR A
BIO-SOLIDS COMPOST FACILITY
Issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

Name of Registrant and Site Owner: ROY EUGENE DONALDSON II
7101 HIGHWAY 290 WEST, SUITE #325
AUSTIN, TEXAS 78736

Facility Name: TEXAS ORGANIC RECOVERY

Classification of Site: REGISTERED COMPOST FACILITY No. 42016

Wastes to be Accepted: municipal sewer sludge, septage, grease trap, paper, vegetative waste matter, brush, wood & yard waste.

The registrant is authorized to store, process, and market materials in accordance with the limitations, requirements, and other conditions set forth herein. This registration is granted pursuant to 30 Texas Administrative Code Chapter 332 and is subject to the rules and orders of the Commission and laws of the State of Texas. Nothing in this registration exempts the permittee from compliance with other applicable rules and regulations of the Texas Natural Resource Conservation Commission. This registration will be valid until canceled, amended, or revoked by the Commission, or until the site is closed in accordance with the provisions of this registration.

APPROVED, ISSUED AND EFFECTIVE this 4th day of December 1998

ATTEST

Handwritten signature of Loretta Castaneda in cursive script.

Handwritten signature of Jeffrey D. ... in cursive script.

For the Commission

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Texas Organic Recovery
Registration N° 42016

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I. Size and Location of Facility

- A. The proposed facility is located in Travis County, Texas. The facility is designed to operate on 30 acre track located 3.5 miles south east of Creedmoor, and on Goforth Road 0.6 miles from the intersection of Williamson Road (County Road 177) and Goforth Road.
- B. The legal description is contained on page 8 and 9 of the Site Development Plan
- C. Coordinates and Elevation of Site Permanent Benchmark:
- Latitude: 45° 54' 31" N
Longitude: 41° 17' 33" W
Elevation: 700 feet above Mean Sea Level

II. Facilities and Operations Authorized

- A. Wastes, Feedstocks and Materials Authorized for Processing at this Facility.
1. The registrant is authorized to receive, process and distribute septage, grease trap, paper, municipal sewer sludge resulting from or incidental to municipal, wastewater treatment.
 2. The registrant is authorized to receive, process and distribute source separated brush, wood, yard waste and vegetative food matter.
- B. Unauthorized and Prohibited Materials.
1. Municipal sewage sludge with mixed municipal solid wastes and or solid wastes are specifically excluded as feedstocks and delivery of these materials is prohibited.
 2. Listed hazardous materials, including fungicides, herbicides, insecticides or other pesticides are not to be applied to or incorporated into the feedstock, processing or processed material.
 3. No petroleum contaminated materials, radioactive waste, mixed municipal solid waste, or special waste from health care related facilities are authorized to be accepted, stored, processed, or disposed of at this site.
 4. Wastes, feedstocks or materials found on this site that are not authorized to be processed at this registered compost facility shall be transported and disposed of in accordance with the applicable State and Federal regulations.

III. Final Product-Testing, Frequency of Monitoring, Recordkeeping and Reporting.

A. Final Product Testing.

1. The sampling and analysis of the final product shall be in accordance with the provisions of 30 TAC §312.7(c).
2. The final product shall be tested for the concentration of each metal listed in Table 3 in 30 TAC §312.43(b). The concentration of each metal in the final product shall not exceed the concentration for the metal in Table 3 of 30 TAC §312.43(b).
3. The final product shall meet the Class A pathogen requirements in accordance with the provisions of §312.82(a).
4. The final product shall meet one of the vector attraction reduction requirements in accordance with the provisions of 30 TAC §312.83(b)(1)-(8).

B. Frequency of Monitoring.

The frequency of monitoring the final product shall be in accordance with the provisions of 30 TAC 312.46(a)(1).

C. Recordkeeping.

1. The registrant shall maintain records in accordance with the provisions of 30 TAC §312.47(a)(1).
2. The registrant shall maintain a copy of the records required in 30 TAC §312.47(a)(1) on-site for a period of five years and make them available to TNRCC inspectors upon request.

D. Reporting

The registrant shall comply with the reporting provisions of 30 TAC §312.48.

IV. Site Development Plan

The "Registration Application for Texas Organic Recovery" including all sections and attachments is the Site Development Plan and is incorporated herein by reference.

EXHIBIT 5

REGISTRATION APPLICATION

FOR

TEXAS ORGANIC RECOVERY

COMPOST FACILITY

MSW 42016

BY:

ROY EUGENE DONALDSON II

SOUTH OF CREEDMOOR

TRAVIS COUNTY,

TEXAS

JULY, 1998

RECEIVED
SEP 17 98
TRRC
CENTRAL RECORDS

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CLOSURE PLAN

The closure plan will include the following:

1. Notification to TNRCC in writing, 60 days prior to the proposed termination/closure date of the facility.
2. No waste material will be accepted after the closure filing date.
3. Materials in the composting process will be allowed to mature.
4. All compost material will be sold or applied to the facility site.
5. The site will be cleaned and inspected to ensure that materials with the potential to cause odors or health and safety risks are removed or neutralized.