

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 9, 2003

TO: Persons on the attached mailing list.

RE: Regional Land Management Services, Ltd.  
Permit No. MSW-2286

### **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 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 Laredo Public Library, 1120 East Calton Road, Laredo, Texas 7804, Webb County.

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 in writing and must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, 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 Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela  
Chief Clerk

LDC/cz

Enclosures

MAILING LIST  
for  
Regional Land Management Services, Ltd.  
Permit No. MSW-2286

FOR THE APPLICANT:

Robert Trevino, President  
Regional Land Management Services, Ltd.  
P.O. Box 333  
Laredo, Texas 78042

Jeffrey K. Reed, P.E.  
SECOR International, Inc.  
Suite 205  
12651 Briar Forest  
Houston, Texas 77077

Brent W. Ryan  
McElroy, Sullivan, Ryan & Miller, L.L.P.  
P.O. Box 12127  
Austin, Texas 78711

FOR THE EXECUTIVE DIRECTOR:

Gabriel Soto, Staff Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087

Karen Cleveland, Staff Engineer  
Texas Commission on Environmental Quality  
Waste Permits Division  
MSW Permits Section MC-124  
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FOR OFFICE OF PUBLIC ASSISTANCE:

Jodena Henneke, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance MC-108  
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FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental Quality  
Public Interest Counsel MC-103  
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FOR THE CHIEF CLERK:

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

PROTESTANTS/INTERESTED PERSONS:

See attached list.

AGUSTIN ALVARADO JR  
217 COLORADO ST  
LAREDO TX 78041

CARL BARTO  
611 HIDALGO  
LAREDO TX 78040

GENE BELMARES  
8807 SHAMA CIR  
LAREDO TX 78045-6260

MARGARTIO BENAVIDES  
902 E PLUM ST  
LAREDO TX 78040

MARINA CANTU-RAMIREZ  
RAMIREZ & ASSOC REAL ESTATE CO  
920 RESARIO  
LAREDO TX 78040

MARIANGELA CAVAZOS  
2619 TREMONT  
LAREDO TX 78043

GENARO ESPARZA  
105 E CENTURY DR  
LAREDO TX 78046

DONIE FRUGE  
PO BOX 440003  
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RANDALL KIPPENBROCK  
4312 DAUGHERTY AVE  
LAREDO TX 78041

RANDALL KIPPENBROCK  
5512 THOMAS AVE  
LAREDO TX 78041

JACK LIND  
2820 63RD ST  
PORT ARTHUR TX 77640-1239

ANA LONGORIA  
511 LINDENWOOD DR  
LAREDO TX 78045

JOSE MARTINEZ SR  
1307 WILDROSE LN  
LAREDO TX 78041

ANTHONY MCGETTRICK  
LAREDO CITY LEGAL DEPT  
1110 HOUSTON ST  
LAREDO TX 78040-8019

AGUSTIN MOLINA  
PO BOX 1774  
LAREDO TX 78041

ARTURO MOLINA JR  
RT 3 BOX 20M  
LAREDO TX 78043

OSCAR MUNOZ  
813 SURVEY RD  
LAREDO TX 78041

JORGE NEGRETE  
413 VENADO CT  
LAREDO TX 78045-7820

VICTOR OLIVEROS  
PO BOX 2337  
LAREDO TX 78044-2337

CHUCK OWEN  
111 ESPERANZA DR  
LAREDO TX 78041

DELIA PENNOCK  
6 CATHERINE ST  
WARRENSBURG NY 12885

ANTONIO & GUADALUPE RUBIO  
510 MILMO AVE  
LAREDO TX 78043

GLORIA RUBIO  
514 ALABAMA  
LAREDO TX 78041

PETE SAENZ III  
2619 MONTERREY ST  
LAREDO TX 78046

ROLANDO SAENZ  
7305 SAN DARIO AVE STE 291  
LAREDO TX 78045

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REGIONAL LAND MANAGEMENT  
PO BOX 333  
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JOHN SPRUIELL  
2406 CLARK BLVD  
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CRISTY SWISHER  
5711 MCPHERSON  
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LAREDO TX 78041

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RR 3 BOX 22A  
LAREDO TX 78046

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LAREDO TX 78040

FEDERICO CAVAZOS  
STE 200  
1505 CALLE DEL NORTE  
LAREDO TX 78041

GUILLERMO CAVAZOS JR  
304 BRAND DR  
LAREDO TX 78041

GUILLERMO J CAVAZOS  
STE 200  
1505 CALLE DEL NORTE  
LAREDO TX 78041

JORGE CAVAZOS  
304 BRAND DR  
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MARY LOUISE CAVAZOS  
STE 200  
1505 CALLE DELNORTE  
LAREDO TX 78041

JOSE DIAZ DELEON  
701 E SAN CARLOS  
LAREDO TX 78041

LUIS A DIAZ DELEON  
121 INDIANA ST  
LAREDO TX 78041

LARRY DOVALINA ACTING CITY MGR  
CITY OF LAREDO  
PO BOX 579  
LAREDO TX 78042-0579

LARRY DOVALINA  
2401 WILLIAMS CT  
LAREDO TX 78045

MONICA FLORES DUNN  
3102 JUNEGRASS CT  
HOUSTON TX 77345

PETER MERRITT DUNN  
3102 JUNEGRASS CT  
HOUSTON TX 77345

PETER MERRITT DUNN JR  
3102 JUNEGRASS CT  
HOUSTON TX 77345

SEAN GORDON DUNN  
3102 JUNGRASS CT  
HOUSTON TX 77345

ANTONIO FLORES  
322 FARRELL RD  
LAREDO TX 78045

THE HONORABLE BETTY FLORES  
MAYOR OF LAREDO  
322 FARRELL RD  
LAREDO TX 78045

DANIEL FLORES JR  
102 CALIFORNIA ST  
LAREDO TX 78041

DAVID L FLORES  
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LAREDO TX 78045

EDWARD R FLORES  
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HELOTES TX 78023

THE HONORABLE ELIZABETH G FLORES  
MAYOR  
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PO BOX 579  
LAREDO TX 78042-0579

FERNANDO FLORES  
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13018 HEIMER RD  
SAN ANTONIO TX 78216-2068

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STE 2404  
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HOUSTON TX 77065

LEO FLORES  
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LOWERRE & KELLY  
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GERARDO LUIS PINA  
2208 BLAINE  
LAREDO TX 78043

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SAN ANTONIO TX 78227

ISABEL FLORES STELLEMA  
102 CALIFORNIA ST  
LAREDO TX 78041

JOSE A VALDEZ  
1404 PIERCE  
LAREDO TX 78041

MARCI A FLORES VILLARREAL  
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RAFAEL VIDAURRI  
1110 VICTORIA STE 109A  
LAREDO TX 78040

**TCEQ PROPOSED MSW PERMIT NO. 2286**

**APPLICATION BY REGIONAL § BEFORE THE**  
**LAND MANAGEMENT SVC. LTD. § TEXAS COMMISSION ON**  
**FOR MSW PERMIT NO. 2286 § ENVIRONMENTAL QUALITY**

CHIEF CLERK'S OFFICE

2003 JUL - 1 PM 4:48

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Public Comment (Response or RTC) on the application by Regional Land Management, Ltd. for Municipal Solid Waste (MSW) Permit No. 2286. As required by 30 TEX. ADMIN. CODE (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The TCEQ received timely comments from 58 commenters, *see Commenters List*. Notwithstanding the limitation in the Rule to relevant and material, or significant comment, this Response addresses all timely public comments received, whether or not withdrawn.

Description of Facility

The proposed Ponderosa Regional Landfill, if approved, would be located in Webb County, off State Highway 359 approximately 11 miles east of the intersection of State Highway 359 and Loop 20. The proposed landfill is a Type I municipal solid waste landfill, with a total net disposal volume (waste and daily cover) of approximately 88,271,000 cubic yards. The total area within the permit boundary is approximately 498.906 acres. Approximately 347 acres will be used for actual land filling operations. The facility will consist of a site entrance with appropriate security fencing, a paved entrance road to the site, all-weather access roads, soil stockpiles, landfill gas monitoring probes, and the solid waste disposal area. Structures for surface drainage and storm water run-on/runoff controls include a perimeter drainage system to convey storm water runoff around the site, berms, ditches, detention ponds, and associated drainage structures.

Procedural History

The permit application was declared administratively complete on August 8, 2000. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit was published on August 14, 2000, in the *Laredo Morning Times*. The TCEQ held public meetings for the application on February 20, 2001, June 28, 2001, and November 12, 2002 in Laredo, Texas. The application was declared technically complete on July 2, 2002. The Notice of Application and the Preliminary Decision was published on August 12, 2002, in the *Laredo Morning Times*. Public comments were accepted until the end of the second public meeting held on November 12, 2002, at which time the period for public comment closed. A revised Site Operating Plan (SOP) was submitted to the TCEQ on April 10, 2002. The ED has reviewed the application and found that it meets the required regulations and has issued a draft permit.

### Access to Rules, Laws, and Records

The Commission's rules may be accessed on-line using the Texas Administrative Code (TAC) viewer feature at the Texas Secretary of State website:

<http://www.sos.state.tx.us> (Click-on Rules and then the Texas Administrative Code).

The Health and Safety Code and the Water Code of the State of Texas may be accessed at the Texas Legislature on-line website at:

<http://www.capitol.state.tx.us/statutes/statutes.html> (Scroll down to find the Codes).

Other useful information is available at the TCEQ website:

<http://www.tceq.state.tx.us>

The federal code, statutes, and regulations may be accessed through the Environmental Protection Agency (EPA) website at:

<http://www.epa.gov/epahome/lawregs.htm>

Commission records on the Regional Land Management, Ltd., Municipal Solid Waste (MSW) Permit No. 2286 may be accessed at the TCEQ Records Services, Building E, Central File Room 103, 12100 Park 35 Circle, Austin, Texas 78753, telephone number (512) 239-6204. Additional records may be available from the TCEQ Region 16 - Laredo Office, at 1403 Seymour, Ste. 2, Laredo, Texas 78040-8752, telephone number (956) 791-6611.

#### Commenters List:

1. Aguilar, Armando
2. Altgelt, George
3. Alvarado, Alberto
4. Alvarado, Olga
5. Barrera, Patricia A.
6. Cavazos, Federico
7. Cavazos, Guillermo
8. Cavazos, Jorge
9. Cavazos, Mary Louise
10. City Council of Laredo
11. Diaz de Leon, Jose
12. Diaz de Leon, Luis A.
13. Dovalina, Larry (Laredo City Manager)
14. Dunn, Monica Flores

15. Dunn, Peter Merritt
16. Dunn, Peter Merritt, Jr.
17. Dunn, Sean Gordon
18. Flores, Antonio
19. Flores, Daniel, Jr.
20. Flores, David L.
21. Flores, Edward R.
22. Flores, Elizabeth (Mayor of Laredo)
23. Flores, Fernando
24. Flores, Jill F.
25. Flores, Leo
26. Flores, Lori A.
27. Flores, Samuel
28. Gonzalez, Dr. Manuel
29. Gonzalez, Karen
30. Guevara, Antonio Flores
31. Guevara, Cristina Flores
32. Guevara, Juan Candia
33. Guerra, Maria E.
34. Gutierrez, Judith (Webb County Commissioner)
35. Hein, Kelle
36. Highway 359 Landowners Coalition
37. King, Tracey O. (State Representative)
38. Lacey, Batemen B.
39. Landa, Geri E. Flores
40. Lowerre, Richard
41. Martinez, Jesus
42. Martinez, Juanita
43. Martinez, Mercurio
44. Medellin, Juan M.
45. Pena, Gerardo Luis
46. Pena, Javier
47. Perez, Alfredo
48. Pinzon, Jerry (TCEQ Regional Director, Region 16)
49. The Honorable Raymond, Richard (State Representative)
50. Rodriguez, Tomas M., Jr. (Webb County Engineer)
51. Sanchez, Jesus M.
52. Spencer, Shirley
53. Stellema, Isabel Flores
54. Tiffin, Rhonda M. (Webb County Planning Director)
55. Valdez, Jose
56. Villarreal, Marci A. Flores
57. Webb County

58. The Honorable Zaffirini, Judith (State Senator)

Outline of Comments (*See also*, section and subsection references at the end of Responses.)

1. **PERMIT PROCESS**
  - A. **Notice**
  - B. **Administrative Review and Technical Review**
  - C. **Request for a Second Public Meeting**
  - D. **Future Permit Amendments**
  
2. **THE APPLICATION**
  - A. **General Permit Application Questions**
  - B. **Validity of Investigations**
  - C. **Inadequacies**
  
3. **LAND USE**
  - A. **Site Characteristics**
  - B. **Vehicle Traffic**
  - C. **Property Values**
  - D. **Buffer Zone**
  - E. **Incompatible Land Use**
  - F. **Alternative Landfill Location**
  - G. **Easement**
  - H. **Air Traffic**
  - I. **Location Restrictions**
  
4. **CITY OF LAREDO LANDFILL**
  - A. **Competition and Need for Landfill**
  - B. **Lost Income and Low Cost Disposal**
  - C. **Illegal Dumping (City of Laredo)** (*See also*, Section 14. Illegal Dumping, Burning Waste, and Junkyards.)
  
5. **ENVIRONMENTAL JUSTICE**
  
6. **NATIVE AMERICAN CEREMONIAL SITE**
  
7. **COLONIAS** (*See also*, Section 20F. Inconsistencies with State and Federal Policies.)
  
8. **WILDLIFE AND PLANTS**
  
9. **GROUNDWATER**

10. **LINER**
  11. **SURFACE WATER**
  12. **EROSION CONTROL**
  13. **SITE OPERATIONS**
    - A. **Odor**
    - B. **Permit Life**
    - C. **Blowing Trash**
    - D. **Types of Waste**
    - E. **Source of Waste**
    - F. **Previous History**
    - G. **Recycling**
  14. **ILLEGAL DUMPING, BURNING WASTES, AND JUNKYARDS** (*See also*, Section 4. City of Laredo - Illegal Dumping.)
  15. **ENFORCEMENT**
  16. **VECTORS**
  17. **FINANCIAL ASSURANCE**
  18. **HEALTH CONCERNS**
  19. **SOUTH TEXAS DEVELOPMENT BOARD APPROVAL**
  20. **MISCELLANEOUS**
    - A. **General Questions and Comments**
    - B. **Liability for Property Damage**
    - C. **Air Pollution**
    - D. **Local and Elected Official Opposition**
    - E. **Risk of Theft**
    - F. **Inconsistencies with State and Federal Policies**
-

## Comments

### 1. PERMIT PROCESS

#### 1A. Notice

##### Comment No. 1:

Mr. Armando Aguilar, Mr. Alfredo Perez, and Mr. Javier Pena stated that they did not receive notice about the proposed landfill and wanted to get more information. Mr. Pena stated that he was under the impression that he was supposed to be notified in writing when the application for the landfill was made. Mr. Pena thought that all adjacent landowners of the landfill should have received a written notice, and as far as he knew they had not received notice yet.

Mr. Javier Pena, identified as a landowner whose property is approximately two miles from the proposed facility, complained that he had not received notice of the permit application.

##### Response No. 1:

The TCEQ's notice requirements at 30 TAC §§ 39.405, 39.413 & 39.501 require that notice be published in the paper of largest general circulation in the county and provided to the adjacent property owners identified in the permit application. Here, the Applicant published the Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit on August 14, 2000, in the *Laredo Morning Times*, and the Notice of Application and Preliminary Decision was published on August 12, 2002, in the *Laredo Morning Times*. The Applicant also provided notice to the adjacent property owners as identified in the application.

The ED also notes that the Solid Waste Disposal Act and the TCEQ's rules require that notice be provided to all addresses and property owners within ½ mile of a new solid waste disposal site; however, this requirement only applies to the notice of hearing, not the notice of receipt of application or the notice of preliminary decision.

Mr. Armando Aguilar, Mr. Alfredo Perez, and Mr. Javier Pena have been added to the mailing list for this permit application. The permit application, statement of basis/technical summary, the ED's preliminary decision, and the draft permit are available for viewing and copying at the Laredo Public Library, 1120 East Calton Road, Laredo, Texas 78041. Further information may also be obtained by calling Mr. Brent Ryan (Director of Regulatory Affairs for Regional Land Management Services) at (512) 327-8111.

#### 1B. Administrative Review and Technical Review

##### Comment No. 2:

Mr. Alfredo Perez, Ms. Cristina Flores Guevara, Dr. Manuel Gonzalez, Mr. Antonio Flores, Mr. Leo Flores, Laredo Mayor Elizabeth Flores, City Council of Laredo, Mr. Guillermo Cavazos, Webb County Commissioner Judith Gutierrez, and Mr. Jorge Cavazos all asked why the TCEQ would

consider a landfill application when a number of people are opposed to it, including citizens, the City of Laredo, the Webb County Commissioners, State Senator Judith Zaffirini, Representative Tracy O. King, and the South Texas Development Council. Some of the aforementioned commenters asked about the purpose of the public meetings.

**Response No. 2:**

When an application is filed, the ED is required to process the application to determine if it complies with all applicable regulations. The TCEQ's rules specify that notice of an application must be provided to the state senator and representative for the area where the facility will be located, the mayor and health authority of any municipality in whose territorial city limits or extraterritorial jurisdiction the facility is located, and to the county judge and health authority of the county in which the facility will be located. However, the TCEQ has no authority to reject or deny an application due solely to the opposition of the public or local elected officials, although their concerns are taken into account in reviewing an application.

Under 30 TAC § 55.154(a), a public meeting is intended for the taking of public comment, and is not a contested case hearing under the Texas Administrative Procedures Act (APA). Once comments are received, but before an application is approved, the ED will prepare a response to all timely, relevant and material, or significant public comment, which will specify the provisions of the draft permit that have been changed in response to public comment and the reasons for the changes, 30 TAC § 55.156(b)(1).

If commenters have concerns regarding the permit after reviewing the RTC, they have the option to file a request for a contested case hearing no later than 30 days after the chief clerk mails (or otherwise transmits) the ED's decision and response to comments and provides instructions for requesting that the commission reconsider the ED's decision or hold a contested case hearing, 30 TAC § 55.201(a). A contested case hearing is an evidentiary hearing held in accordance with the requirements of the APA and is conducted by the State Office of Administrative Hearings (SOAH) at the Commission's request. The SOAH assigns an Administrative Law Judge (ALJ, or judge), who resolves procedural and evidentiary matters. Following the hearing, the judge issues a formal recommendation, known as the Proposal For Decision (PFD), to the three-member commission. After evaluating the judge's proposal for decision, the Commission may issue a final decision.

**Comment No. 3:**

Laredo Mayor Elizabeth Flores, explained in the *Laredo Morning Times* that the Applicant had stated that they hoped the public meeting would not be a rehash of the same arguments by the same people. Mayor Flores said that the Applicant stated that the TCEQ already heard and responded to comments from the previous meeting, and if the same people had the same questions and comments it would waste state money. Mayor Flores asked how it would be a waste of state money to assure that the application is compatible with existing and projected land uses. Mayor Flores also asked how it could be a waste of state money to hear as many times as possible and from as many people as possible about their concerns for environmental racism, groundwater contamination, air pollution, traffic impact, and property devaluation.

**Response No. 3:**

The TCEQ does not consider the taking of public comments to be a waste of state resources. As previously stated, the purpose of public meeting is to take public comment. The ED appreciates all of the comments that were received during the public meetings on this application.

**Comment No. 4:**

Mr. Antonio Flores questioned why a public meeting was held after TCEQ had determined that the permit met all of the TCEQ rules and regulations, and a draft permit was issued. Mr. Flores also expressed concerns that the permit application was approved and was a “done deal.”

Mr. Gerardo Luis Pena stated that he and his family disagreed with the TCEQ issuing a permit to the Applicant.

**Response No. 4:**

This permit has not yet been approved by the Commission. The application has been processed and reviewed in accordance with TCEQ rules. As part of the review process, the ED has determined that the application complies with all applicable requirements of the TCEQ rules. As a result, and in accordance with the TCEQ rules, the ED has prepared the draft permit and recommended its issuance. A draft permit is subject to revision based on comments received. In this case, the ED is not making or recommending such changes. The draft permit continues to represent and contain the ED’s recommendations relating to a permit for the proposed facility. If this application goes to a contested case hearing, the ED may still recommend changes to the draft permit if additional information warrants such changes.

**Comment No. 5:**

Mr. Guillermo Cavazos asked if TCEQ will answer all of the questions raised at the public meeting.

State Representative Richard Raymond stated that it was important for the long-term interests of Laredo and the surrounding community that the questions raised by the opponents of the Ponderosa Landfill application be responded to fully.

**Response No. 5:**

Once comments are received, but before an application is approved, the ED will prepare a response to all timely, relevant and material, or significant public comment, which will specify the provisions of the draft permit that have been changed in response to public comment and the reasons for the changes, 30 TAC § 55.156(b)(1); this document is the RTC. After the ED files the response to comments, the chief clerk shall mail (or otherwise transmit) the ED's decision; the ED's response to public comments; and instructions for requesting that the commission reconsider the ED's decision or hold a contested case hearing, 30 TAC § 55.156©). This information will be sent to the Applicant; any person who requested to be on the mailing list for the permit action; any person who submitted comments during the public comment period; any person who timely filed a request for a contested case hearing; the Office of the Public Interest Counsel; and the Office of Public Assistance, 30 TAC § 55.156©).

**Comment No. 6:**

Mr. Jorge Cavazos asked what criteria the TCEQ uses in determining whether or not the application will be approved, and he inquired whether public sentiment will be considered.

State Representative, Tracy O. King stated that she hoped TCEQ will take into account the strong opposition from the local community before granting this permit.

**Response No. 6:**

The TCEQ bases its decisions on applicable state and federal laws. In this case, the application must comply with the requirements of the Texas Solid Waste Disposal Act, codified in Chapter 361 of the TEX. HEALTH & SAFETY CODE, 30 TAC §§ 39.405, 39.413 & 39.501 regarding notice requirements, Chapter 330 rules regarding municipal solid waste facilities, and all other applicable rules and regulations. The ED reviews applications to ensure that they comply with applicable laws.

The three-member Commission is appointed by the governor and is responsible for all permitting decisions issued by the agency. The commission has delegated authority to the ED to review permits. The ED is allowed to approve certain permits when an application has not been contested. However, any permit application that is contested will be sent to the commission for a decision on whether a contested case hearing should be granted or denied.

**1C. Request for a Second Public Meeting**

**Comment No. 7:**

Webb County Commissioner Judith Gutierrez, Mr. Louis A. Diaz de Leon, Mr. George Altgelt, and Mr. Jesus M. Sanchez requested a second public meeting so that residents from the colonias could attend. County Commissioner Gutierrez stated that the residents of the colonias were not given enough time to make preparation for transportation in order to have an opportunity to attend the first public hearing. Mr. Altgelt expressed his concern for the participation of the residents of the colonias who were not present at the hearing for comment.

Mr. Jesus Martinez, Mr. George Altgelt, and Webb County Commissioner Judith Gutierrez requested that an additional public meeting be held at a location, the local community center, near the residents who may be affected by the proposed facility. Mr. Martinez also stated that an interpreter should be provided for Spanish speaking commenters.

**Response No. 7:**

TCEQ rules require the holding of a public meeting at a location in the county where the facility is proposed to be located. An initial public meeting regarding this application was held on February 20, 2001. Following receipt of these comments and other requests, two additional public meetings regarding the application were held. The additional public meetings were conducted on June 28, 2001, and November 12, 2002, at locations suggested by the interested persons. Interpreters were available at these public meetings.

**Comment No. 8:**

Jerry Pinzon, the TCEQ Regional Director, Region 16, thanked the staff for holding a second hearing on the landfill application, and voiced his concern for the long term interest of the local community and an agency response to the citizens questions.

**Response No. 8:**

The ED acknowledges the importance of the participation of regional staff in the permitting process.

**1D. Future Permit Amendments**

**Comment No. 9:**

Laredo City Manager Larry Dovalina stated the Council of Governments (COGs) represents a four county area, and to his knowledge there was not another regional Type I facility within the four county area that was in compliance, other than the City of Laredo's. He wanted to know if the proposed facility did not prove to be economically viable for the location, what process would be used to amend the permit in order to make it economically viable. City Manager Dovalina also wanted to know what type of waste would then be accepted after the amendment. Another question posed by the city manager was whether there was a process utilized to change a Type I facility and whether there would be an opportunity to comment on the change. The city manager also explained that he had not thought of the National Pollutant Discharge System (NPDES) and Texas Pollutant Discharge Elimination System (TPDES) permitting process, and wanted to know if the proposed landfill facility is outside the city limits then where would they apply for a TPDES permit if such a permit was necessary. He also wanted to know what would happen when the annexation of this particular area were to occur, and whether they would be grand fathered in under the TPDES permit or whether the City's TPDES permit would cover the area that has already been permitted as the landfill site.

**Response No. 9:**

The TCEQ has no authority under the Texas Solid Waste Disposal Act to consider economic viability when reviewing an application.

A permittee can modify or amend a permit in a few different ways. Modifications are specific changes which are authorized under 30 TAC § 305.70. Some modifications require notice, while others do not. A minor amendment is an amendment to improve or maintain the permitted quality or method of disposal of waste, or injection of fluid if there is neither a significant increase of the quantity of waste or fluid to be discharged or injected nor a material change in the pattern or place of discharge or injection. A minor amendment includes any other change to a permit issued under this chapter that will not cause or relax a standard or criterion which may result in a potential deterioration of quality of water in the state. A major amendment is an amendment that changes a substantive term, provision, requirement, or a limiting parameter of a permit. Major amendments require notice and afford the opportunity for public participation.

With regard to TPDES permits, if an MSW permit is granted to Regional Land Management Services, Ltd., they will have apply to the TCEQ for a TPDES permit, if required. It does not matter if the landfill is located inside or outside the city limits of Laredo.

## 2. THE APPLICATION

### 2A. General Permit Application Questions

#### **Comment No. 10:**

Adjacent landowners, in questions submitted through State Senator Judith Zaffirini, stated that the purpose of the landfill according to the TCEQ summary is "to serve as a regional landfill primarily for Webb County and the surrounding South Texas region." These landowners questioned why Webb County and the City of Laredo, the main producers of waste in the area, passed resolutions against the landfill.

#### **Response No. 10:**

The summary was prepared based on information in the application. According to the application, the proposed landfill has received resolutions supporting its development from the following: The City of Roma; The City of LaGulla, The County of Zapata, The County of Starr, The County of Jim Hogg and the South Texas Development Council-Regional Solid Waste Management Committee. The ED does not know why Webb County and the City of Laredo passed resolutions against the landfill.

#### **Comment No. 11:**

Ms. Mary Louise Cavazos stated that Jim Hogg County and Zapata County favor this landfill and asked the Applicant if Webb County favored it and if not, then why not.

#### **Response No. 11:**

There is nothing in the Application which indicates that Webb County favors the application. The ED does not know whether the county favors or opposes the application; this is not an issue which the TCEQ can consider when reviewing a municipal solid waste landfill application.

#### **Comment No. 12:**

Ms. Mary Louise Cavazos asked how the Applicant determined the size of the proposed landfill. Ms. Cavazos asked if the proposed size is based on the needs of the region. Ms. Cavazos stated that the Applicant referred to the Regional Plan and asked the Applicant what the Regional Plan projects.

#### **Response No. 12:**

The ED cannot speak for the Applicant and does not know how the Applicant determined the size of the proposed landfill. The Applicant must provide an estimate of the operating life of the site, 30 TAC §§330.55(a)(4). As stated in Part III of the application, the Ponderosa Regional Landfill will be available for management of municipal solid waste generated throughout the South Texas Region as described in the South Texas Regional Solid Waste Management Plan (Sept. 1994). For the 347

acre disposal area, the estimated site life is 94 years for an average waste generation rate of 1500 tons per day. The site life may change depending on waste generation and acceptance rates.

**Comment No. 13:**

Mr. Jorge Cavazos stated that he wanted to know whether or not the application was going to be approved.

**Response No. 13:**

The ED's preliminary decision is to recommend issuance of the permit by the Commission. The ED does not know if the permit will be issued by the Commissioners.

**Comment No. 14:**

Ms. Mary Louise Cavazos asked if this venture made sense on paper. Ms. Cavazos also asked if the Applicant had done a financial projection of its landfill business without the City of Laredo's trash.

Mr. Bateman B. Lacey asked if the Applicant was currently contracted with the City of Laredo for transportation of solid waste from dumpsters. Mr. Lacey asked the Applicant how long this contract lasted, and if the contract required the Applicant to haul the waste to the City's landfill.

**Response No. 14:**

This comment is outside the scope of the TCEQ's jurisdiction.

**Comment No. 15:**

Mr. Guillermo Cavazos asked how accurate the application is when it fails to show the Lobo Creek Domestic Water Well, which is approximately a ½ mile away based on their mile radius water well report. Mr. Antonio Flores, on behalf of Mr. Alberto Rubio stated that in all the presentations at the public meetings Mr. Rubio's land was not mentioned. Mr. Rubio explained he has one of the best wells in the area which is within a two mile radius of the proposed site. His well is approximately 1245 feet deep; the water level is at 650 feet, and he has 1180 feet of water. Mr. Rubio expressed to Mr. Flores that it contains good clean drinkable water, and that the Aeols well was also not mentioned.

Mr. Richard Lowerre stated that the application does not provide for adequate numbers of wells, proper depths and proper location to assure detection of contamination from the landfill.

**Response No. 15:**

Pursuant to 30 TAC §§ 330.52(b)(4)(ii), 305.45, and 330.53(b)(8)(E), a description and discussion of known water wells within 500 feet of the permit boundary must be provided and the location identified on a map. The state well numbering system designation for the Texas Water Development Board for located wells must be shown. The Applicant complied with these regulatory requirements, and the information is in Part I/II of the application. A well ½ mile away is well beyond 500 feet from the permit boundary.

**Comment No. 16:**

Mr. Guillermo Cavazos asked if Mr. Roberto Trevino had read the entire application that he is certifying as truthful.

**Response No. 16:**

The ED cannot speak for Mr. Trevino; however, under 30 TAC § 330.51(b)(2), It is the responsibility of the applicant to provide the ED with data of sufficient completeness, accuracy, and clarity to provide assurance that operation of the site will pose no reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners. Submission of false information shall constitute grounds for denial of the permit.

**Comment No. 17:**

Adjacent landowners, in questions submitted through State Senator Judith Zaffirini, asked why the TCEQ wrote a summary in engineering terms rather than in terms that a layman could understand. Adjacent landowners stated that the TCEQ refers to elevations of the landfill in sea level numbers instead of stating the approximate height and depth of the landfill in feet.

**Response No. 17:**

The technical summary is based on the information contained in the Application and is intended for use by engineering professionals. The TCEQ requires applicants to provide information in specific engineering and technical formats, *see* 30 TAC §§ 305.45 and 330.51-56. This information is used by the TCEQ to evaluate permit applications and determine whether they meet the requirements for municipal solid waste facilities under Chapter 330. This information must be submitted by a licensed professional engineer. The responsible engineer must affix her seal, sign her name, place the date of execution and state intended purpose on each sheet of engineering plans, drawings, and on the title or contents page of the application as required by the Texas Engineering Practice Act, §15c, and in accordance with 22 TAC § 131.138 (concerning Engineer's Seal), 30 TAC § 330.51(d).

**2B. Validity of Investigations**

**Comment No. 18:**

Mr. Guillermo Cavazos stated that the system for allowing private companies to check for wildlife and endangered species is a conflict of interest. He wanted to know how a party that is being paid by an Applicant can perform a legitimate survey. Mr. Cavazos went on to state that the public is not being served by the state agency, since a private enterprise is profiting at the expense of the public. Mr. Cavazos, Dr. Manuel Gonzalez, Mr. Diaz de Leon, and Mr. Richard Lowerre along with members of the Highway 359 Landowners Coalition questioned the validity of the endangered species and archaeological investigations performed for the site.

**Response No. 18:**

TCEQ's rules provide for consideration of the potential impacts of a solid waste disposal facility on threatened and endangered species and critical habitat. The applicant communicated with and obtained information from both the Texas Parks and Wildlife Department and the U.S. Fish and

Wildlife Service regarding potential impacts. In addition, personnel from both agencies conducted site visits. The results of these investigations were that no threatened or endangered species would be impacted by the facility. The information submitted was determined by the ED to meet the requirements of the MSW regulations. The Applicant coordinated its investigation of archaeological and historic sites with the Texas Archaeological Research Laboratory and the Texas Historical Commission. A detailed survey of cultural resources was performed for the site. The survey report was submitted to the State Historic Preservation Officer, who concluded that the project would have no effect on National-register eligible or listed properties or State Archaeological Landmarks and that the project may proceed. The ED has determined that the information provided demonstrates compliance with TCEQ rules.

## **2C. Inadequacies**

### **Comment No. 19:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition asked what criteria was used to evaluate the application, and stated that the application was inadequate.

### **Response No. 19:**

A permit application for a municipal solid waste landfill facility must comply with all applicable requirements of the Solid Waste Disposal Act and the TCEQ's consolidated permit rules in 30 TAC Chapter 305 and the municipal solid waste rules in 30 TAC Chapter 330. Section § 330.51 specifies the informational requirements and the appropriate format for MSW applications. Specific requirements and criteria used in evaluating applications and proposed facilities are contained there and in other provisions in Subchapters E, F, H, I, J, K and L of 30 TAC, Chapter 330. The ED has determined that the application complies with all applicable regulatory requirements in 30 TAC, Chapters 305 and 330.

### **Comment No. 20:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the application does not present an adequate evaluation of the soils and geotechnical conditions and related design features of the landfill.

### **Response No. 20:**

The application, in Part III, Attachment 4, includes both a subsurface investigation report and a geotechnical report. The commenter did not identify any specific inadequacies in the soils and geotechnical evaluations. The ED has determined that the information provided in the application complies with 30 TAC § 330.56(d)(5), which requires that applicants provide the results from investigations of subsurface conditions.

### **Comment No. 21:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the application does not provide an adequate or correct evaluation of geology and groundwater hydrology because it does not properly identify vertical and horizontal groundwater flow rates and

directions; the number of artificial penetrations in the area and features that may be in the area such as inadequate soils, sinkholes, porous caliches, and recharge features.

**Response No. 21:**

The ED has determined that the information provided in the application complies with the requirements in 30 TAC, Chapter 330, for investigating and reporting information related to geology and groundwater hydrology. Attachment 4, Part III of the application (Geology Report) includes the information required by 30 TAC § 330.56(d), including descriptions of regional geology; geologic processes and regional aquifers; a subsurface investigation report of on-site borings to test soils and characterize groundwater; a geotechnical report describing the geotechnical properties of the soil materials and their suitability; and a groundwater investigation report. Attachment 5, Part III of the application is a Groundwater Characterization Report which provides data on groundwater occurrence and hydrology as required by 30 TAC § 330.56(e). Information on groundwater flow rates and directions is included in Attachments 4 and 5. In accordance with the requirements in 30 TAC §§ 330.54(b)(4)(A)(ii) and 330.53(b)(8)(E), the permit application (in Parts I/II) includes information on known wells in the vicinity of the site. The suitability of soils is addressed in the geotechnical report in Attachment 4. Active geological processes and unstable areas location restriction criteria are also addressed in Attachment 4. Soil permeabilities are discussed in the geotechnical report in Attachment 4, and groundwater recharge and discharge are discussed in the groundwater investigation report in Attachment 4 to the application.

**Comment No. 22:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the application does not provide for a proper design for the landfill.

**Response No. 22:**

The ED is unable to determine from this comment what, if any, particular aspect(s) of landfill design are being addressed and, as a result, cannot provide a substantive response. However, the ED has made a preliminary determination that the application meets all applicable rules and requirements.

**Comment No. 23:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that almost all aspects of the Site Operating Plan are inadequate to meet the requirements of the rule, and they noted that the entire plan needs to be redone to provide the details required by the rules. The aforementioned commenters stated that the Site Operation Plan includes inadequate plans for fire prevention and response, windblown wastes, odors, methane, vectors, bird strikes, prevention of ponding of water, screening of wastes, disposal of contaminated waters, landfill cover, waste along routes to the site, protection of flora and fauna, including those requiring special protection, access control, and prevention of prohibited wastes from being accepted.

**Response No. 23:**

The Applicant submitted a revised Site Operating Plan on April 10, 2003. The Site Operating Plan in Part IV of the application has been carefully reviewed meeting the minimum requirements

specified in 30 TAC §§ 330.111-139, and adequately addressed each of the applicable items listed by the commenter. The permit application, statement of basis/technical summary, revised SOP, the ED's preliminary decision, and the draft permit are available for viewing and copying at the Laredo Public Library, 1120 East Calton Road, Laredo, Texas 78041.

**Comment No. 24:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the application does not properly evaluate changes in drainage that will occur and, as result, there will be significant changes in drainage patterns.

**Response No. 24:**

The TCEQ's rules require that a permit applicant demonstrate that the facility will not significantly alter natural drainage patterns as specified in 30 TAC §§ 330.55(b)(5) and 330.56(f). The Applicant submitted drainage calculations in part III, attachment 6 of the application. The ED concluded that the drainage analysis in the application was performed as required by the rules and demonstrated that natural drainage patterns will not be significantly altered by the proposed facility.

**Comment No. 25:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the permit is inadequate, because many terms set out in the permit and incorporated in the application are vague and/or unenforceable.

**Response No. 25:**

The ED has determined that the draft permit is adequate and its terms are enforceable.

3. **LAND USE**

3A. **Site Characteristics**

**Comment No. 26:**

Mr. Federico Cavazos asked how large the landfill would be in acres, and how much of the acreage will be filled with garbage. Mr. Cavazos also asked how much of the acreage will be used for a buffer zone, and how much of the acreage will be unused.

**Response No. 26:**

The total area within the permit boundary is approximately 498.906 acres. Approximately 347 acres will be used for actual land filling operations. A buffer zone of at least 50 feet is required between the solid waste processing and disposal activities and the boundary of the site by 30 TAC § 330.121. A buffer zone of 125 feet is proposed around most of the landfill area.

**Comment No. 27:**

Mr. Federico Cavazos asked what the depth of the landfill would be in feet, and what will be the height of the highest point of the cap after the landfill is closed.

**Response No. 27:**

The projected final elevation of the waste fill and final cover will be approximately 700 feet above mean sea level (msl) or approximately 170 feet above ground level. The lowest elevation of waste placement will be approximately 457 feet msl or 73 feet below ground level.

**3B. Vehicle Traffic**

**Comment No. 28:**

Webb County Commissioner Judith Gutierrez, Dr. Manuel Gonzalez, Mr. Leo Flores, and Mr. Alberto Alvarado had concerns about increased traffic on Highway 359 because of the proximity of the proposed landfill to an elementary school. Dr. Manuel Gonzalez addressed his concern for the roadway near the colonias and the need for lights, police, and/or a road expansion. Dr. Gonzalez explained that the school buses have a hard time reaching the colonias due to the elevated highway that meets the road leading to the colonias. Dr. Gonzalez stated that the increase in traffic caused by the landfill will be a danger to the safety of the children. Commissioner Gutierrez stated that the North American Free Trade Agreement (NAFTA) and the new school located in area 359 had caused an increase in traffic, and with the landfill there would be a tremendous traffic concern.

Adjacent Landowners in questions submitted through State Senator Judith Zaffirini, and Webb County Engineer Mr. Tomas M. Rodriguez, Jr., asked how this project would impact traffic safety.

The aforementioned Commenters expressed concerns regarding access to roadways, and stated that the facility would have adverse traffic impacts.

**Response No. 28:**

The requirements regarding transportation are under 30 TAC § 330.53(b)(9). First, the Applicant is required to provide data on the availability and adequacy of roads that the Applicant will use to access the site. Next, this rule requires the Applicant to provide data on the volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the proposed facility. Additionally, the Applicant should project the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility.

The Applicant has provided a transportation analysis in Part I/II of the application in compliance with 30 TAC §§ 330.53(b)(9)(A-C). Projected traffic volumes are predicted to increase approximately 2 percent or less due to the landfill. State Highway 359 currently has adequate capacity for projected traffic including landfill traffic. Correspondence from the Texas Department of Transportation states that the proposed facility will be in compliance with Texas Department of Transportation traffic and location restrictions.

**Comment No. 29:**

The City Council of Laredo and a Webb County representative stated that the proposed private landfill would only have access from a two-lane highway at an unsafe speed and location that has

no turning lanes and no acceleration lanes, which would be dangerous to the motoring public.

Mr. Rodriguez stated that vehicles traveling towards Laredo from other towns will be approaching the proposed entrance after negotiating a curve.

**Response No. 29:**

No turning lanes on State Highway 359 are proposed; a site entrance road will be constructed from State Highway 359 into the facility.

**Comment No. 30:**

Ms. Shirley Spencer stated that she was concerned about protecting her ranch equipment from theft, because of the increased flow of traffic in the area.

**Response No. 30:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization & Recycling); and Chapter 330 (Municipal Solid Waste). However, this public comment pertains to an issue that is outside the scope of this agency's jurisdiction.

### 3C. Property Values

**Comment No. 31:**

Mr. Juan M. Medellin, Mr. Leo Flores, Mr. David L. Flores, Ms. Jill F. Flores, Mr. Edward R. Flores, Ms. Geri E. Flores Landa, Ms. Lori A. Flores, Ms. Cristina Flores Guevara, Mr. Juan Candia Guevara, Mr. Samuel Flores and Ms. Marci A. Flores Villarreal stated that they had invested a lot of money into their properties and will lose it because their properties will decrease in value after the landfill is built.

Ms. Mary Louise Cavazos and Mr. Leo Flores stated that they would like to have proof that their house will not decrease in value after the landfill is built.

Ms. Cristina Flores Guevara, Mr. Juan Candia Guevara, Mr. Fernando Flores, and Mr. Gerardo Luis Pena stated that a landfill in close proximity to their land will ruin the continued use and enjoyment of their land.

Mr. Fernando Flores said that he leases acreage for grazing, fishing, and hunting activities. Mr. Flores stated that the income that he derives from such activities supplements his income and helps him plan for his retirement. Mr. Flores explained that if the landfill is approved then he will lose this income.

**Response No. 31:**

The TCEQ has no authority under the Texas Solid Waste Disposal Act to consider property values and devaluation of property in the review of a municipal solid waste permit application.

**Comment No. 32:**

Mr. Guillermo Cavazos and adjacent landowners in questions, submitted through State Senator, Judith Zaffirini, asked who will be financially responsible both in terms of contamination and loss of property value.

**Response No. 32:**

The permit, if granted, would not allow the Applicant to maintain a condition of nuisance that would interfere with a landowner's use and enjoyment of his property. Furthermore, if the permit is approved, it would not limit the ability of a landowner to use common law remedies for nuisance in response to activities that interfere with his use and enjoyment of his property. Under the Texas Water Code, Chapter 26, Section 26.121, the TCEQ has general authority to prohibit discharges into any water in the state. Under 30 TAC § 330.4(a), "No person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any municipal solid waste (MSW) unless such activity is authorized by a permit or other authorization from the [Texas Water] Commission, except as provided for in this section," *see also*, subsections (c)-(h). "In the event this requirement is violated, the executive director may seek recourse against not only the person who stored, processed, or disposed of the waste but also against the transporter, owner or operator, or other person who caused, suffered, allowed, or permitted its waste to be stored, processed, or disposed," 30 TAC § 330.4(b). Therefore, the Applicant will be financially liable for any discharge into any water in the state.

In addition to being liable for discharges into any water of the state during the landfill operation, the facility will also be financially liable for discharges after the facility closes. Under 30 TAC § 37.8001, the facility is required to demonstrate financial assurance for closure, post closure, and corrective action. In addition to the requirements of 30 TAC §§ 37.8001-37.8071 owners or operators must comply with Subchapters A, B, C, and D of Chapter 37 (relating to General Financial Assurance Requirements; Financial Assurance Requirements for Closure, Post Closure, and Corrective Action; Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action; and Wording of the Mechanisms for Closure, Post Closure, and Corrective Action). *See also*, 30 TAC §§ 330.280-284.

**Comment No. 33:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the facility would not be compatible with surrounding land uses and development, and contend that the facility would adversely affect property values.

**Response No. 33:**

According to 30 TAC § 330.53(8), the Commission can consider the impact of a site upon a city, community, group of property owners, or individuals in terms of compatibility of land use in the

vicinity, community growth patterns, and other factors associated with the public interest. The ED has concluded that the information required in 30 TAC §§ 330.53(8)(A-E), demonstrating land use compatibility was submitted in the application.

The TCEQ does not have the authority to consider property values when reviewing a municipal solid waste landfill application.

### 3D. **Buffer Zone**

#### **Comment No. 34:**

Mr. Jorge Cavazos asked what the buffer zone requirements for this landfill are.

#### **Response No. 34:**

30 TAC § 330.121 requires that a minimum separating distance of 50 feet shall be maintained between solid waste processing and disposal activities and the boundary of the site, unless otherwise authorized by the ED, and that the buffer zone shall not be narrower than that necessary to provide for safe passage for fire-fighting and other emergency vehicles. The Applicant has proposed a minimum buffer zone of 125 feet around most of the landfill area. The ED has determined that the proposed buffer zone meets the regulatory requirements.

#### **Comment No. 35:**

Adjacent Landowners in questions submitted through State Senator Judith Zaffirini, stated that the proposed landfill is little more than 100 feet from adjacent properties. Adjacent landowners asked if it would be safe for people to live 100 feet from this landfill if these adjacent properties are turned into residential or commercial subdivisions.

#### **Response No. 35:**

If the proposed landfill is operated in accordance with the TCEQ rules, there should be no impact on the safety of the people who live 100 feet from the landfill. 30 TAC § 330.53(b)(8), states the primary concern in ascertaining land use compatibility is that the use of any land for an MSW landfill should not adversely impact human health or the environment. To assist in the evaluation of the site impact, the Commission's regulations require certain information regarding the zoning of the area, the character of the surrounding land uses within one mile of the facility, growth trends, proximity to residences and other uses, and a description of all known wells within 500 feet of the proposed site. The Applicant provided the required information complying with the requirements of 30 TAC § 330.53(b)(8). An Applicant must provide data on the availability and adequacy of roads that the Applicant will use to access the site. Next, this rule requires the Applicant to provide data on the volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the proposed facility. Additionally, the Applicant should project the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility.

### 3E. Incompatible Land Use

#### **Comment No. 36:**

The Mayor of Laredo Elizabeth Flores, stated that after the technical review there should be enough evidence to show that this is inappropriate land use. Mayor Flores stated, since this application has passed the TCEQ technical review---the city will argue that it is not safe for this area nor the arroyos that run through these ranches. The Mayor stated that the protection of the Rio Grande should be their primary concern.

Mr. Antonio Flores, Ms. Cristina Flores Guevara, Mr. David L. Flores, Ms. Jill F. Flores, Mr. Edward R. Flores, Ms. Lori A. Flores, Ms. Marci A. Flores Villarreal, Mr. Juan Candia Guevara, Ms. Geri E. Flores Landa, Mr. Samuel Flores, City Council of Laredo, and Mr. Leo Flores stated that this is an inappropriate use of land that they worked hard to conserve and maintain, and the proposed site will spoil the peaceful enjoyment of their land---for their family and future generations.

Ms. Cristina Flores Guevara stated that the City of Laredo may need additional landfills, but a landfill should never be built at the expense of families.

Mr. Leo Flores stated the landfill will force many nearby residents away from their homes. Mr. Flores further stated that he and adjacent landowners question whether the landfill would be consistent with existing and projected land uses. Mr. Flores explained that projected uses include fast growing residential areas, schools, and businesses.

Mr. Richard Lowerre stated that the landfill is not a compatible use of land, given the nature of the surrounding lands.

Mr. Luis A. Diaz de Leon stated that he knows the community will need a landfill in the future, and felt that the community should do more recycling. He does not feel that this is the proper place for the proposed landfill, because there are too many residents that live along Highway 359 near the proposed site. Mr. Diaz de Leon also stated those impacted are low income residents who need better representation.

#### **Response No. 36:**

Pursuant to 30 TAC § 330.53(b)(8), the Commissioners can consider the impact of a site upon a city, community, group of property owners, or individuals in terms of compatibility of land use in the vicinity, community growth patterns, and other factors associated with the public interest. The ED has concluded that the information required in 30 TAC §§ 330.53(b)(8)(A-E) concerning land use compatibility was submitted in the application.

#### **Comment No. 37:**

Mr. Antonio Flores stated that he is strongly opposed to the landfill, because it would be adjacent to a future retirement home that he and his wife are building near a lake that provides water to his small herd of cattle and crops. Mr. Flores also stated that his father-in-law owns property directly

in front of the City of Laredo landfill, and there is nothing that his wife's family can do with the land except rent the space to a flea market operator.

**Response No. 37:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization & Recycling); and Chapter 330 (Municipal Solid Waste). However, the public comment pertains to an issue that is outside the scope of this agency's jurisdiction.

**Comment No. 38:**

Mr. Leo Flores stated that the TCEQ is the law and landowners rely on the agency to keep the landfill away from the local neighborhood.

**Response No. 38:**

The Commission is given the authority to implement the constitution and laws of this state relating to the conservation of natural resources and protection of the environment, TEX. WATER CODE § 5.012. The TCEQ does not have the authority to prohibit the permitting and construction of landfills, unless a permit application fails to comply with the Chapter 330 and all other applicable rules and regulations.

**Comment No. 39:**

The Mayor of Laredo Elizabeth Flores, stated that there is a great deal of wildlife at the proposed site including herds of white-tailed deer and quail. Mayor Flores stated the landfill site will be near a proposed bird sanctuary. The Mayor also noted that the proposed site is inappropriate land use, because of potential harm to the environment.

**Response No. 39:**

The TCEQ has limited authority to consider the effects of a facility on wildlife. Under 30 TAC § 330.53 (b)(13)(B) the commission must consider the impact of a solid waste disposal facility upon endangered or threatened species, and "the facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species." In accordance with 30 TAC §§330.51(b)(8), 330.53(b)(13), and 330.302, the Applicant must demonstrate compliance with the Endangered Species Act under state and federal laws. This demonstration is contained in Part I/II of the application.

**Comment No. 40:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked why the TCEQ made the statement: "The growth of new development has been observed to the North and South...and is not in the expected growth areas." Adjacent landowners asked if the TCEQ has seen the Concord Hills, the Ponderosa Hills, the Fiesta Subdivision, the City of Laredo Fire station No. 11, the UISD Sports Complex, or the Senator Judith Zaffirini Elementary School---all of which

are recent projects on the east side of the proposed landfill. Adjacent landowners asked if the TCEQ realized that growth follows the development of public infrastructure, such as water and sewer lines. Adjacent landowners asked the TCEQ why people would only want to live North and South of Laredo.

**Response No. 40:**

The statement in question was based on information submitted as part of the application. Under 30 TAC § 330.53(b)(8)(D), the Applicant is required to provide, “[the]...proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.) and identify “...the approximate number of residences and business establishments within one mile of the proposed facility including the distances and directions to the nearest residences and businesses[.]” The Applicant identified these sites in accordance to the TCEQ requirements.

**Comment No. 41:**

Adjacent landowners, in questions submitted through State Senator Judith Zaffirini, asked if the TCEQ felt that people should not move to areas adjacent to a landfill. The Adjacent landowners stated that if not, then what do growth patterns have to do with the location.

**Response No. 41:**

The TCEQ does not have an opinion as to whether individuals should or should not move to areas adjacent to a landfill. Growth trends are specific to the issue of land use compatibility. As previously stated, according to 30 TAC § 330.53(b)(8), the Commissioners can consider the impact of a site upon a city, community, group of property owners, or individuals in terms of compatibility of land use in the vicinity, community growth patterns, and other factors associated with the public interest. The ED has concluded that the information required in 30 TAC §§ 330.53(b)(8)(A-E) demonstrating land use compatibility was submitted in the application.

**3F. Alternative Landfill Location**

**Comment No. 42:**

Mr. Antonio Flores, Ms. Cristina Flores Guevara, Mr. Samuel Flores, and Ms. Patricia Barrera asked why the Applicant does not consider placing the landfill on property adjacent to the Applicant’s ranch property on US Highway 359.

Ms. Kelle Heir stated that she lives in Pueblo Nuevo and her family opposes the landfill proposal that should be stopped.

Mr. Daniel Flores, Jr., stated that he did not approve of the proposed landfill site nor a site on other property owned by Mr. Trevino.

The Laredo City Manager Larry Dovalina, Ms. Cristina Flores Guevara, and Mr. Richard Lowerre along with members of the 359 Highway Landowners Coalition stated that they were not involved

in the choice of the proposed landfill location and questioned whether it was the best location for a new landfill. The aforementioned Commenters asked if it was good planning to locate the facility within 8 miles of an existing facility, and wanted to know if the project met the regional solid waste management plan.

**Response No. 42:**

Apart from the land use compatibility requirements and the location restrictions in the TCEQ's rules, the TCEQ has no authority over the location of a proposed site as selected by an applicant.

The TCEQ's MSW rules require that permit applicants submit a demonstration of compliance with the regional solid waste plan as part of the permit application process. By law, the Council of Governments (COGs) has the primary responsibility for the regional planning process, and on the adoption of a regional solid waste management plan by Commission order, public and private solid waste activities and state regulatory activities must conform to that plan. Before the Commission issues a solid waste permit, the Commission must consider whether the solid waste facility and the proposed site for the facility are compatible with the local solid waste management plan. The Applicant provided information demonstrating the facility's compliance with provisions of the South Texas Regional Solid Waste Management Plan by submitting a resolution by the South Texas Development Council Regional Solid Waste Committee dated June 8, 1999, supporting the proposed development of the council.

**3G. Easement**

**Comment No. 43:**

Ms. Shirley Spencer asked if the 30 foot easement providing access to her property will be fenced.

**Response No. 43:**

The perimeter of the proposed site will be fenced. The TCEQ does not have the authority to require fences on other properties.

TCEQ rules provide that it is the responsibility of an owner or operator to possess or acquire a sufficient interest in or right to the use of the property for which a permit is issued, including the access route thereto. The granting of a permit does not 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. The granting of a permit would not authorize any interference with existing property rights, such as easements. The permit application identifies a private road easement along the east side of the permit boundary.

**3H. Air Traffic**

**Comment No. 44:**

Mayor of Laredo Elizabeth Flores and Mr. Antonio Flores stated that military aircraft use Hersh Field adjacent to the proposed facility for touch and go landing exercises. Mr. Flores mentioned that

planes from a naval base in Corpus Christi use the field for touch and go landing--very often, and he stated that there was the possibility of danger with the bird population in that area.

**Response No. 44:**

TCEQ rules require coordination with the airport and the Federal Aviation Administration (FAA) for any facility proposed to be located within five miles of a public use airport runway end and a location restriction demonstration for a facility proposed to be located within 5,000 or 10,000 feet of a public use airport runway end (depending on whether turbojet aircraft use the airport). The application and a comment letter from the FAA state that there are no existing or proposed public use airports within five miles of the site. The FAA letter indicates that the facility is approximately 12 miles from the Laredo International Airport and states that the FAA has no objection to the proposal. Both the application text and the included Brownsville Sectional Aeronautical Chart refer to the Laredo Auxiliary Air Field, located approximately 1.5 miles east of the site, as closed. The ED concluded that the information provided satisfies the requirements of the TCEQ rules.

**3I. Location Restrictions**

**Comment No. 45:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the application does not identify the violations of location restrictions, including those for unstable areas, fault areas, wetlands, and flood plains.

**Response No. 45:**

The ED has reviewed information in the permit application and has concluded that development of the proposed facility will not violate any of the location restrictions in the TCEQ rules, including those for unstable areas, fault areas, wetlands, and flood plains. As discussed in Parts I/II and Attachment 4 in Part III of the application, the facility is not proposed to be located in an unstable area as described in 30 TAC § 330.305 or a fault area as described in 30 TAC § 330.303. As discussed in Parts I/II of the permit application, a determination and delineation of wetlands and waters of the U.S. was conducted at the site. Approximately 1.45 acres of waters of the U.S. were identified on the site and, pursuant to verification provided by the Department of the Army, Corps of Engineers, the filling of approximately 1.16 acres of jurisdictional waters was authorized by Section 404 nationwide permit. As discussed in Parts I/II and Attachment 6 of Part III of the permit application, the site is not located within the 100-year flood plain.

**4. CITY OF LAREDO LANDFILL**

**4A. Competition and Need for Landfill**

**Comment No. 46:**

State Representative Richard Raymond stated that questions raised, such as the need for this landfill should be looked at and addressed.

Mr. Jose Valdez stated that there is a need for additional waste disposal capacity, and the proposed facility would meet such need. Mr. Jesus Sanchez stated that expansion of an existing facility or development of a different new facility could meet the need. Mr. Luis Alfonso Diaz de Leon stated that development of the proposed facility would be beneficial, because it would create competition with existing facilities. Webb County Commissioner Judith Gutierrez stated that competition from the development of the proposed facility would adversely affect an existing facility.

**Response No. 46:**

The Solid Waste Disposal Act does not give the TCEQ the authority to consider the need for a proposed MSW facility when reviewing and acting on a permit application. Similarly, the TCEQ does not have the authority to consider the effects of competition or to exercise economic regulation over landfill facilities. Every MSW facility is required to comply with the terms and conditions of its permit and with the TCEQ's regulations.

**Comment No. 47:**

Mayor of Laredo Elizabeth Flores stated that the estimated numbers within the Regional Land Management application listings, pertaining to waste quantities, were a mystery to her and City staff members.

**Response No. 47:**

Under 30 TAC § 330.54(3), the Applicant is required to provide solid waste data that is to include, "[the]...identification of the nature, type, and quality of waste proposed for processing and/or disposal in the site...[including]...a brief description of the general sources and generation areas contributing wastes to the site...[and]...an estimate of the population or population equivalent served by the site." The Applicant provided the information required by 30 TAC § 330.54(3).

**Comment No. 48:**

Ms. Mary Louise Cavazos asked if the Applicant supported the expansion of the City of Laredo landfill. Mr. Armando Aguilar stated that it was his understanding that the City of Laredo had applied to expand its landfill. Mr. Aguilar stated that he believed that the City of Laredo landfill could accept wastes for 10-15 more years, and wanted to know if this was true. Ms. Cavazos and Mr. Bateman B. Lacey asked the Applicant if the City of Laredo will make a profit if this permit is approved. Ms. Cavazos also asked if the Applicant planned to put the City of Laredo out of the landfill business, and whether this would be considered a monopoly.

**Response No. 48:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization & Recycling); and Chapter 330 (Municipal Solid Waste). However, this public comment pertains to an issue that is outside the jurisdictional scope of the TCEQ.

**Comment No. 49:**

Ms. Mary Louise Cavazos asked the Applicant whether it could still serve the same region if the 1998 City of Laredo expansion ensued.

**Response No. 49:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization & Recycling); and Chapter 330 (Municipal Solid Waste). However, the public comment pertains to an issue that is outside the scope of this agency's jurisdiction.

**4B. Lost Income and Low Cost Disposal**

**Comment No. 50:**

Mayor of Laredo Elizabeth Flores stated that the city collects approximately \$4,300,000 in tipping fees per year at its regional landfill and as a result of these revenues, the City is able to provide low-cost disposal methods for its citizens. Mayor Flores anticipates a decrease of approximately \$1,500,000 to \$1,800,000 in revenue per year in the event a competing landfill would be approved.

**Response No. 50:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization & Recycling); and Chapter 330 (Municipal Solid Waste). However, the public comment pertains to an issue that is outside the scope of this agency's jurisdiction.

**4C. Illegal Dumping (City of Laredo Landfill)**

**Comment No. 51:**

Webb County Commissioner Judith Gutierrez stated that people continue to dump their trash within the area of the colonias. Commissioner Gutierrez stated that illegal dumping occurs on Sunday when the current city landfill is closed, and individuals who arrive at the city landfill bringing trash on Sundays do not leave with their trash. She stated that colonias have been used continually for illegal trash dumping and also for illegal tire dumping by operators renting nearby properties. Commissioner Gutierrez explained that residents of the colonias deserve a quality of life that is just as good as those who live within the City.

Webb County Commissioner Judith Gutierrez, a Webb County representative, the City Council of Laredo, and Mayor of Laredo Elizabeth Flores, stated that the City of Laredo landfill is able to provide low cost disposal to citizens and residents of Webb County. The aforementioned commenters stated that the City of Laredo projects that an additional landfill will preclude the city from providing a low cost disposal method to the residents of Webb County due to a decrease in

revenue received by the service provider of the regional landfill. Commissioner Gutierrez and Mayor Flores stated that the elimination of a low cost disposal method, including the no-charge Saturday dumping service, will lead to an increase in illegal dumping by citizens and backyard burning of waste in Webb County, and will increase the cost of disposal to the residents of Webb County.

**Response No. 51:**

Illegal dumping is a violation of state law. Member of the public who witness illegal dumping should call the TCEQ's Region 16 office in Laredo at (956) 791-6611, or call the toll-free Environmental Violation Hotline at 1-888-777-3186. TCEQ rules at 30 TAC § 111.209 allows the domestic burning of waste at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided or authorized by the local governmental entity having jurisdiction, and when the waste is generated only from that property.

**5. ENVIRONMENTAL JUSTICE**

**Comment No. 52:**

Mr. Jesus Martinez said that he saw this project as social, environmental and racist. Mr. Martinez explained that a lot of colonia residents do not understand the process or the implications of the proposed project.

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked if it was fair to the colonias, approximately a mile and a half from the proposed landfill site, to have a dump in their neighborhood. The Adjacent landowners stated that this is surely environmental racism, because the residents of the colonias are at a disadvantaged and the landfill site will be detrimental to their health and property. Adjacent landowners also asked if it was environmental racism to allow an already disadvantaged area to become further degraded by allowing waste from the rest of the country to be deposited at the site for the next 95 years.

Mayor Flores stated that it was important for the public to comment on the landfill proposal in order to address their concerns, which include: environmental racism, groundwater contamination, air pollution, traffic impacts, and property devaluation.

**Response No. 52:**

The statutes and regulations governing municipal solid waste permitting do not incorporate Title VI of the Federal Civil Rights Act (environmental justice/equity issues) into the application review process, *see* Chapter 361, TEX. HEALTH & SAFETY CODE; *see also*, 30 TAC, Chapter 330. The commission is not required to perform any analysis of demographics in the area.

The TCEQ has made a strong policy commitment to address environmental equity by creating an environmental equity program within the Office of Public Assistance. The stated goals of this program include: helping citizens and neighborhood groups participate in the regulatory process;

ensuring agency programs that substantially affect human health or the environment operate without discrimination; incorporating into agency policies a sensitivity to the collection and analysis of demographic information for areas surrounding facilities or sites; and ensuring that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. (TCEQ Publication GI-223 (9/96), Environmental Equity.) The Office of Public Assistance can be reached at 1-800-687-4040 for further information.

## 6. NATIVE AMERICAN CEREMONIAL SITE

### **Comment No. 53:**

Dr. Manuel Gonzalez stated that the archeological study did not include his property, and he explained that he has discovered arrowheads and a cemetery with some bones.

Mr. Luis A. Diaz de Leon stated that he represents Conto Laretera, Prayer to the Earth, which is a group of native Americans that have a ceremonial site about a mile and a half from the proposed landfill site. Mr. Diaz de Leon feels that the proposed dump site is going to destroy something that is close to his heart. Mr. Diaz de Leon stated that man is now looking at a creek named El Lobo and the spirit of the wolf will be destroyed if this landfill is approved.

### **Response No. 53:**

A cultural resources survey was conducted at the proposed site. Fifteen previously unrecorded archeological sites were identified. No previously recorded sites exist on the property. The sites are very shallow and have been disturbed by root-plowing, etc. None appear to be eligible for nomination to the National Register of Historic Places or designation as state archeological landmarks. If any buried cultural evidence is encountered during construction, it is recommended that the Texas Historical Commission be notified and the evidence be evaluated by an archeologist.

## 7. COLONIAS

### **Comment No. 54:**

Dr. Manuel Gonzalez, Mr. Leo Flores, Mayor of Laredo Elizabeth Flores, Webb County Commissioner Judith Gutierrez, a Webb County Representative, and Ms. Patricia Barrera stated that the TCEQ should not approve this permit because it will endanger the public health, the health of the children, and the well being of the colonias. Mayor Flores stated that the next step should eventually be to have a landfill far away from any neighborhood or colonia in order to prevent harm.

Ms. Antonio Flores, Webb County Commissioner Judith Gutierrez, Mr. George Altgelt, Mr. Jorge Cavazos, and Dr. Manuel Gonzalez discussed the proximity of the proposed facility to a residential area identified as a colonia. The aforementioned commenters stated: 1) the facility would be located adjacent to this residential area; 2) the facility would adversely affect the quality of life there; and last, 3) the facility would be inconsistent with infrastructure

improvement projects expected in the area. Mr. Jesus Martinez stated that approval of the facility would constitute environmental racism.

Mr. Jose Valdez stated that the facility would be located two miles from this residential area and it would not impact the area.

State Representative Richard Raymond stated that questions raised, such as its proximity to existing colonias, should be looked at and addressed.

**Response No. 54:**

Under 30 TAC § 330.51(b)(2), the Applicant is responsible for providing the ED data of sufficient completeness, accuracy, and clarity to provide assurance that the operation of the site will pose no reasonable probability of adverse effects on health, welfare, environment, or physical property of nearby residents or property owners. The applicant provided this information, complying with this requirement. Even though the MSW rules do not contain specific provisions for the evaluation of health effects from municipal solid waste landfills, based on the information available to the ED at this time, the ED does not expect any adverse health effects to result from the proposed landfill if it is operated in accordance with the draft permit and the MSW regulations.

Land use information included in the application identified three residences and a hunting camp located within a one-mile radius of the proposed facility. None of them is located in a developed residential area. Apart from the land use compatibility requirements and the location restrictions in the TCEQ's rules, the TCEQ has no authority over the location selected by an applicant.

**Comment No. 55:**

Mr. George Altgelt stated that the people who are really going to be affected, apart from the adjacent landowners, are the people of the colonias who are not participating in the decision. Mr. Altgelt argued that there had not been enough community outreach for the colonia residents.

**Response No. 55:**

The TCEQ held three public meetings for this application. The purpose of the public meetings was to allow citizens to ask questions of the agency and the applicant and to hear the concerns of the citizens. Interpreters were available for two of the meetings.

**Comment No. 56:**

Mr. Luis Diaz de Leon stated that the colonias residents will not be able to use the proposed facility, which will be an injustice to them.

**Response No. 56:**

The landfill may or may not be open to the public at the discretion of the Applicant. There is no information in the application which indicates whether the landfill will accept waste from individuals or just from contracted entities.

**Comment No. 57:**

Mr. Jose Valdez stated that he was concerned for the quality of life of the people who are residents of the colonias, and in his opinion he believed that the proposed landfill site will not be a threat to their quality of life.

**Response No. 57:**

The ED acknowledges the comment.

8. **WILDLIFE AND PLANTS**

**Comment No. 58:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, stated that two rare bird species (Ferruginous Pygmy Owl, Northern Beardless Tyrannulet) have been seen on the Lobo Creek Ranch, which is 2000 feet from the landfill. Adjacent landowners asked what the impact of the landfill will be on these rare species if it is built.

Mr. Guillermo Cavazos, Ms. Cristina Flores Guevara, Mr. Antonio Flores, Mr. Juan Candia Guevara, Mr. Leo Flores, Mr. Samuel Flores, and Mr. Fernando Flores stated that the natural habitat of many wild animals will be seriously threatened, and the Blancos Creek, the Los Lobos Creek, the Rio Grande and lakes that surround this ranch land will be destroyed by the proposed landfill.

Mr. Antonio Flores stated he saw a horned toad on his land, and he believes endangered species will be threatened by the landfill. Mr. Guillermo Cavazos stated that he also saw a horned toad on his property.

Mayor Flores stated that there was going to be a new bird sanctuary in the area with a rare bird population, and due to the new landfill site the bird sanctuary could be negatively impacted.

Mr. Jose Diaz de Leon, Mr. Antonio Flores, Mr. Guillermo Cavazos, and Dr. Manuel Gonzalez stated that the facility would adversely affect wildlife, including endangered species and habitat, and the spirit of the wolf.

**Response No. 58:**

Under 30 TAC § 330.53(b)(13)(B), the commission must consider the impact of a solid waste disposal facility upon endangered or threatened species, and “the facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.” In accordance with 30 TAC §§ 330.51(b)(8), 330.53(b)(13), and 330.302, the Applicant must demonstrate compliance with the Endangered Species Act under state and federal laws. This demonstration is contained in Part I/II of the application.

TCEQ's rules provide for consideration of the potential impacts of a solid waste disposal facility on threatened and endangered species and critical habitat. In addition, personnel from U.S. Fish and Wildlife and Texas Parks and Wildlife conducted site visits. The results of these investigations were that no threatened or endangered species would be impacted by the facility. The information submitted in the application was determined by the ED to meet the requirements in 30 TAC, Chapter 330.

**Comment No. 59:**

Ms. Cristina Flores Guevara, Webb County Commissioner Judith Gutierrez, and Mayor of Laredo Elizabeth Flores stated that the proposed landfill would have a direct impact on the lake their relatives utilized as a source of water. Ms. Guevara read a letter from her father Mr. Antonio Flores, expressing his concern as a property owner along the 359 Highway area and the negative impacts on a lake that his small herd of cattle depends on.

Ms. Monica Flores Dunn, Mr. Peter Merritt Dunn, Jr., Mr. Peter Merritt Dunn, and Ms. Isabel Flores Stellema (Members of the Highway 359 Coalition) stated that the proposed landfill would be built near their relatives' ranch located along US Highway 359. They explained that the site would impact a lake that their small herd of cattle depends on for water, and it would also have an adverse effect on the white tail deer, quail, surrounding wells, the bird habitat, and many other wild animals. They expressed their concern for the impacts on the beautiful area that was to be the future location of their relatives' retirement homes, and stated that they would not want to live near a pile of trash as high as the Hamilton Hotel, in Laredo.

**Response No. 59:**

If the proposed landfill is operated in accordance with TCEQ rules and the draft permit, there should be not be an impact to area lakes. The TCEQ's MSW rules establish specific criteria for the design of a site drainage system, which must be followed in order to obtain a permit. The criteria include a demonstration that the facility's run-on control system is capable of preventing flow onto the active portion of the landfill during the peak discharge from at least a 25-year storm; the facility's run-off management system from the active portion of the landfill can collect and control at least the water volume resulting from a 24-hour, 25-year storm; the facility will not significantly alter the natural drainage pattern; and the facility's design will maintain low non-erodible velocities, minimize soil erosion losses below permissible levels, and provide long-term, low maintenance geotechnical stability to the final cover. The proposed drainage system design was determined to meet the requirements of the TCEQ's regulations. The applicant has complied with these rules by submitting information in the Site Development Plan which is Part III of the Application.

**COMMENT No. 60:**

Mr. Antonio Flores stated that for years he has used government money for soil conservation, wildlife conservation, and water conservation to improve his ranch. Mr. Flores stated these are taxpayer funds that will be of no use to anybody because wildlife will be driven from the site if the landfill is built.

Ms. Cristina Flores Guevara read a letter by Mr. Fernando Flores, her father, that stated that his parents have spent years working to conserve the land which now abounds with grass, wild mesquite trees, numerous varieties of cactus, and wild flowers. Mr. Flores wrote that these efforts will be ruined if the landfill is permitted. Mr. Fernando Flores expressed his concern for his livestock and the threat of endangering the future leasing of his land for grazing, fishing, and hunting due to the negative impacts from the landfill.

Mr. Leo Flores stated that he wanted a pledge from the TCEQ ensuring the protection of wildlife, because habitats are going to be disturbed by this landfill. Mr. Flores stated that wildlife will be driven away and will be forced out of their homes. He further explained that wildlife needed protection like people need protection, and he was looking to the TCEQ for such protection.

Mayor Elizabeth Flores stated that the local wildlife, which included the white tail deer and quail, could be negatively impacted by the landfill, causing the area to be deserted by these types of animals.

Mr. Alberto Alvarado asked what the landfill will do to grazing animals.

**Response No. 60:**

The TCEQ has limited jurisdiction to consider the effects of a proposed landfill on wildlife. TCEQ's rules provide for consideration of the potential impacts on threatened and endangered species and critical habitat. In this case, the applicant communicated with and obtained information from both the Texas Parks and Wildlife Department and the U.S. Fish and Wildlife Service regarding potential impacts. In addition, personnel from both agencies conducted site visits. The results of these investigations were that no threatened or endangered species would be impacted by the facility.

**Comment No. 61:**

Dr. Manual Gonzalez stated that the impact of the landfill trucks, movement, and destruction would adversely affect the wildlife a mile away, and he proposed that a counter archeological study and environmental impact study be carried out.

Webb County Planning Director Rhonda Tiffen stated that she is sure the TCEQ is aware of the endangered species that are indigenous to the area. Ms. Tiffen asked if the TCEQ was familiar with the Johnson-Francania, the Ashy Dog-weed, and the Ocelot Habit for this area. Ms. Tiffen stated that the TCEQ should consider these animals and require an impact study at the minimum, whether or not it is required by law. Ms. Tiffen argued that the TCEQ should mandate as a minimum that an environmental impact study be prepared for the area and be provided for public comment to all of the residents in Webb County.

Webb County Commissioner Judith Gutierrez stated that an Environmental Impact Statement (EIS) should be considered and evaluated.

**Response No. 61:**

An EIS is generally only required for federal actions under the National Environmental Policy Act (NEPA). This is not a federal action, and therefore an EIS is not required.

See Response No. 95. Endangered Species.

**9. GROUNDWATER**

**Comment No. 62:**

Mr. Fernando Flores, Webb County Engineer Mr. Tomas M. Rodriguez, Jr., Mr. Juan Candia Guevara, and a Webb County representative stated that a landfill in the currently proposed site will cause tremendous disruption to the natural resources of the area. Mr. Flores stated that it would harm, damage, and destroy the environment, especially the water supply. Mr. Jose Diaz de Leon stated that the landfill could potentially contaminate the groundwater, threatening the future of our children. Ms. Patricia Barrera stated that there could be a possibility that the landfill liner could leak resulting in the contamination of the local water supply.

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition have expressed concern about the possibility of groundwater contamination resulting from the operation of the proposed facility, and stated that the issuance of the permit would be inconsistent with state policies that prohibit discharges and actions that could result in the pollution of state groundwater.

**Response No. 62:**

The landfill will be constructed with a composite liner and leachate collection system meeting the groundwater protection design criteria as stated in 30 TAC § 330.200(a)(2). The liner system will incorporate a Leachate Collection System (LCS) designed to meet the requirements of 30 TAC §§ 330.56(o) and §330.201.

As defined in 30 TAC § 330.56(o), contaminated water is water which has come into contact with waste, leachate, or gas condensate. Storm water which comes into contact with solid waste will be considered contaminated water. Contaminated storm water at the working face will be contained by run-on/run-off berms. Contaminated surface water and groundwater may not be placed in or on the landfill. Untreated contaminated water may not be discharged from the site.

**Comment No. 63:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, stated the TCEQ in its summary expressed that its aim was, "to reduce the potential for impacts to groundwater[.]" Adjacent landowners asked if this is an admission that TCEQ cannot guarantee that the groundwater will not become contaminated.

These landowners also stated that the cross section of the proposed landfill shows groundwater will be within the 40 foot deep pit of the landfill and asked if the TCEQ will make sure that this is not contaminated.

**Response No. 63:**

If the landfill is designed and operated in compliance with all applicable rules and regulations, then human health and the environment will be protected. The TCEQ MSW Permits Staff has reviewed Permit Application No. MSW 2286 and found that it complies with the requirements of 30 TAC Chapter 330.. The Yegua Formation underlies the proposed Ponderosa Regional Landfill Facility and is an aquiclude, that is, its transmissivity is so low that it cannot yield any significant quantity of water to wells. Even though water does occur within the Yegua Formation, the formation characteristics, including very low hydraulic conductivity, mean that there is no potential for migration of leachate through the formation. Additionally, water quality of ground water in the Yegua Format is moderately saline, making it unsuitable for domestic use.

**Comment No. 64:**

Mayor Flores stated that the proposed landfill location is next door to her husband's ranch. Mayor Flores stated that it is immediately across from a lake that provides water for his small herd and crops. Mayor Flores stated that this is completely inappropriate land use due to the potential of damaging and disturbing the environment, especially the ground water. Mayor Flores noted that one cannot assure anyone hazardous waste will not end up in this landfill. Further, Mayor Flores noted that she has seen recent reports from customs on the trash that is taken out to the City landfill, and she cringes at the possibility of any possible contamination going into her underground water.

Ms. Juanita Martinez stated that any contaminants that filter into the water base will affect the health of families living within a 3 mile radius, and will bring disease and epidemic to the rest of the city.

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked if the property owners 40 yards from the landfill will be able to safely use their groundwater.

**Response No. 64:**

The landfill will be constructed with a composite liner and leachate collection system meeting the groundwater protection design criteria in 30 TAC, Chapter 330, Subchapter H.

The Applicant proposes to dispose of municipal solid waste as defined in 30 TAC § 330.2 resulting from or incidental to municipal, community, commercial, institutional, and recreational activities. The draft permit also authorizes the disposal of construction and demolition waste as defined in 30 TAC § 330.2. Special wastes as defined in 30 TAC § 330.2 and which do not require prior approval may be accepted for disposal in accordance with 30 TAC § 330.136.

**Comment No. 65:**

Ms. Mary Louise Cavazos asked the Applicant if their site plan placed the landfill in proximity of the water table.

**Response No. 65:**

The data presented in the application indicates that the uppermost aquifer at this site is the Laredo Formation. The top of this aquifer is approximately 400 feet below the land surface. There will be

a vertical separation of at least 350 feet between the base of the landfill and the top of the Laredo Formation.

**Comment No. 66:**

Ms. Mary Louise Cavazos asked where the Applicant will get water to operate the landfill.

**Response No. 66:**

It is the responsibility of the Applicant to secure water to operate the proposed landfill and TCEQ rules do not require the Applicant to provide those plans to the agency as part of the review process.

**Comment No. 67:**

Ms. Mary Louise Cavazos asked the Applicant if it was determined whether the ground water was an aquifer, and if so, how. Ms. Cavazos also asked for the diameter of the well test bore, and whether a pump could be placed in those wells.

**Response No. 67:**

The Applicant has provided data, in accordance with the requirements of 30 TAC § 330.56(d)(5)(A), that the Yegua Formation, which occurs at the surface at this site, is not an aquifer. This is confirmed by reports published by the USGS and Texas Water Development Board. The diameter of the soil borings at this site were 4 inches. A pump could be installed in a well with this diameter hole.

**Comment No. 68:**

Mr. Guillermo Cavazos stated that there is groundwater within the pit to be excavated. Mr. Cavazos also stated that the Applicant claims that this shallow groundwater does not go to surrounding properties. Mr. Cavazos questioned how the Applicant knows this, and stated that several backhoe tests in the Lobo Creek area have produced 3-4 feet of water within a 2 hour period. Last, Mr. Cavazos wanted to know if the Applicant can provide him assurance that these shallow waters are not connected.

Mr. Richard Lowerre stated that the application does not provide for adequate groundwater monitoring.

Ms. Mary Louise Cavazos asked how the Applicant proposes to monitor the groundwater.

**Response No. 68:**

Groundwater monitoring is not required under 30 TAC § 330.231 if there is no uppermost aquifer present at the site. The Applicant, based on the data provided in the application, has demonstrated that no uppermost aquifer exists in the vicinity of the landfill, and that groundwater monitoring is not required for this site. Formation characteristics of the Yegua Formation indicate that there is little potential for lateral migration of contamination. The applicant is required to monitor the uppermost aquifer at a site. In this case, the yegua Formation is an aquiclude, and does not yield enough water

to wells for an adequate sample to be collected. Therefore, groundwater monitoring is not required at this facility.

## 10. LINER

### **Comment No. 69:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked if it was true that EPA studies show that 90% of landfills eventually leak and cause damage to groundwater.

### **Response No. 69:**

The ED is not aware of EPA studies which show that 90% of landfills eventually leak and cause damage to groundwater.

### **Comment No. 70:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, and Mr. Guillermo Cavazos, asked how a clay liner can be applied on a 33 percent slope. Adjacent landowners stated that the cross section does not show a clay liner on the sides, either below ground or above ground. Mr. Cavazos also stated the fact that the pit will be in clay soil it will create a "bathtub" effect of liquid waste resulting in overflow.

### **Response No. 70:**

The bottom and sides of the waste fill area will be lined with a liner system designed to meet the requirements of 30 TAC § 330.200. The clay liner will be constructed in lifts and compacted.

The leachate collection system is designed to remove leachate from the liner to address the "bathtub" effect. Design of the leachate collection system is addressed and provided in the Site Development Plan and Attachment 15 in Part III of the application. The leachate collection system will maintain less than 30 cm of leachate head on the liner.

### **Comment No. 71:**

Mr. Louis Diaz de Leon stated that he does not care how many layers of clay or how many pieces of plastic are used, because water has a way of finding its way to the source and it would be pretty much impossible to stop the pollution of the groundwater.

Mr. Guillermo Cavazos stated that it is impossible to control the streams on any kind of clay liner or composite liner, or plastic and clay liner. Mr. Cavazos stated that it is documented that there is no such thing as a liner that does not fail. He also noted that he was sure that there would be a large amount of carcinogens in the wastes that will come out, and questioned who would be liable for any release.

Ms. Patricia Barrera stated that the Applicant contends that the landfill will not leak; however, when the temperature gets above 110 degrees the clay will compact and cause leakage resulting in water contamination. Ms. Barrera stated that it will come to the point that people are going to be selling

water, because in the future they will not have sufficient drinking water. Ms. Barrera explained that the City of Laredo will have to provide water for its people.

**Response No. 71:**

The proposed clay liner meets the liner requirements of 30 TAC, Chapter 330. During liner installation, the clay must be kept hydrated and prevented from drying out. During operation of the landfill, the clay will not be exposed.

**Comment No. 72:**

Mr. Federico Cavazos asked if the landfill will be lined and capped and, if so, then what will the cover and the liner consist of.

**Response No. 72:**

The landfill will be lined and capped. The final cover system consists of the following components (listed in order from top to bottom):

- 24-inch erosion layer
- Geocomposite on slopes greater than 5 percent
- Flexible membrane liner
- 18-inch soil infiltration layer.

The bottom and sides of the waste fill area will be lined with a liner system designed to meet the requirements of 30 TAC § 330.200. The liner system consists of the following components (listed in order from top to bottom of the liner system):

- 24-inch of protective cover or 12 inches protective cover with the use of a Granular drainage layer.
- Geonet drainage layer with filter fabric
- 60 ml HDPE geomembrane
- 24 inches compacted soil.

**Comment No. 73:**

Mr. Guillermo Cavazos stated that each of the 23 cells will have a capacity of 11.6 years at the rate of 800 tons/day (each cell will have a capacity of 3,400,000 tons). Mr. Cavazos stated that the liner will be exposed for a very long time and will deteriorate. Mr. Cavazos also asked how this will be prevented, and what will happen if the Applicant does not get the projected tonnage.

**Response No. 73:**

The liner will be constructed for each individual cell as needed, and will not be constructed for the entire landfill at one time.

**Comment No. 74:**

Ms. Juanita Martinez, Ms. Mary Louise Cavazos and Mr. Richard Lowerre along with members of

the Highway 359 Landowners Coalition requested monitoring provisions requiring testing of liners and gases, environmental effects, the water table, and public health.

**Response No. 74:**

In accordance with TCEQ rules, the Applicant is proposing testing of the landfill liners, both re-compacted clay liners and synthetic liners, during the construction process, prior to the placement of waste on the liners. The TCEQ's rules require landfill owners and operators ensure that the concentration of methane gas generated by the facility does not exceed 25% of the lower explosive limit for methane in facility structures, and the concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary. To ensure compliance with this requirement, this facility proposes the use of 20 gas monitoring probes around the perimeter of the facility. This network meets the requirements of the TCEQ's regulations. As part of the permit application process, the Applicant conducted geologic and groundwater investigations for the site. Piezometers installed around the perimeter of the site will be maintained and monitored for water levels on a quarterly basis. The TCEQ municipal solid waste rules have been developed to ensure that facilities are designed, constructed, and operated so as to be protective of human health and the environment.

**Comment No. 75:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the application does not provide for a proper design for the landfill liner, sidewall, leachate collection systems, and storm water controls.

**Response No. 75:**

The application does provide specific design information for the landfill liner system, including sidewall liner, and for the leachate collection system proposed for the facility. The ED has concluded that these designs meet the applicable requirements of the TCEQ municipal solid waste rules. Design of the landfill liner system is addressed and provided in the Site Development Plan, Attachment 10 and Attachment 15 in Part III of the application. Liner construction details in the application indicate that the bottom and sides of the waste fill area will be lined with a liner system designed to meet the requirements of 30 TAC § 330.200. The liner system will consist of the following components (listed in order from top to bottom of the liner system); 24 inches of protective cover or 12 inches protective cover with the use of a granular drainage layer; a geonet drainage layer with filter fabric or 12 inch granular drainage layer; 60 mil HDPE geomembrane; and 24 inches of compacted low permeability soil. Design of the leachate collection system is addressed and provided in the Site Development Plan and Attachment 15 in Part III of the application. The leachate collection system will maintain less than 30 cm of leachate head on the liner.

11. **SURFACE WATER**

**Comment No. 76:**

Mr. Fernando Flores, Mr. Juan Candia Guevara, Ms. Maria E. Guerra, and a Webb County

representative stated that the site of the proposed landfill will cause tremendous disruption to the natural resources of the area. Mr. Flores stated that it would harm, damage, and destroy the environment, especially the water supply. Ms. Guerra explained that as a consequence of the landfill operation the watershed of the Rio Grande could be contaminated resulting in the loss of the local South Texas drinking supply.

Laredo Mayor Elizabeth Flores, stated that no one can assure the community that the watersheds will be protected.

**Response No. 76:**

Untreated contaminated water may not be discharged from the site. Storm water which comes into contact with solid waste will be considered contaminated water. All discharge of storm water shall be in accordance with the U.S. Environmental Protection Agency NPDES requirements or the Texas Pollutant Discharge Elimination System (TPDES) requirements as applicable.

**Comment No. 77:**

Mr. Louis Diaz de Leon stated the Rio Grande is considered one of the most polluted rivers in the nation. He explained if more waste drains into Lobo Creek which drains into the Delores Creek and then drains into the Rio Grande, then the Rio Grande will become more polluted.

Ms. Cristina Flores Guevara stated that the proposed landfill would have a direct impact on the lake on her father's ranch, which a small herd of cattle rely on for water. She also stated that the surrounding creeks and lakes and others will be destroyed, because she believes that toxic waste or other unknown waste being brought from other municipalities will not be Type I waste.

State Representative Richard Raymond, Mr. Antonio Flores, Webb County Commissioner Judith Gutierrez, Mr. Guillermo Cavazos, Webb County Engineer Tomas M. Rodriguez, Jr., and Ms. Olga Alvarado stated that the proposed private landfill is on the watershed of the Blancos Creek, the Lobo Creek and the Rio Grande, and any contamination escaping from the proposed private landfill would impact the primary source of water of the citizens of Webb County. Mr. Tomas M. Rodriguez, Jr., stated that he was particularly concerned over the potential of contamination of surface waters, i.e. storm drainage runoff from tributaries of the Dolores Creek and to the Rio Grande River. Commissioner Gutierrez stated that it is critical to preserve and protect the watershed that provides the primary water source for the citizens of Webb County from possible contamination. State Representative Richard Raymond stated that the TCEQ should consider the potential for damage to the Rio Grande River. Mr. Cavazos also stated that the detention pond is not big enough to contain the run-off, and explained that rainwater from storms could carry contaminants into the waterways. Mr. Cavazos contended that sudden storms could cause waste to wash down the sides of the fill. Webb County Engineer Mr. Tomas M. Rodriguez, Jr., stated that he was concerned about potential contamination of soils.

Mr. Armando Aguilar asked who would be liable for surface water runoff from the site. Mr. Aguilar asked how runoff be contained, where it will go, and if it will impact the Rio Grande. Ms. Shirley

Spencer is concerned that runoff from the landfill may contaminate her stock tanks, since one of her stock tanks is just across the property line.

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition expressed concern relating to the impacts of rainfall at the facility, and stated that the application does not provide for storm water controls.

**Response No. 77:**

Untreated contaminated water may not be discharged from the site. Storm water which comes into contact with solid waste will be considered contaminated water. All discharge of storm water shall be in accordance with the U.S. Environmental Protection Agency NPDES requirements or the Texas Pollutant Discharge Elimination System (TPDES) as applicable. The proposed drainage structures are designed to handle runoff from a 24-hour, 25 year storm event as required by the regulations. These structures include drainage terraces, final cover drainage channels, perimeter drainage channels, and detention basins. If the permit is issued and there are unauthorized discharges from the landfill, the permittee will be subject to enforcement.

**Comment No. 78:**

Mr. Guillermo Cavazos asked if Mr. Pepe Trevino will be personally liable for any trash and toxic waste that ends up in surrounding streams or lakes. Mr. Guillermo Cavazos also asked if Mr. Pepe Trevino will be personally liable for cleaning up contaminated water that goes into the highway drainage wells and ends up on surrounding properties.

**Response No. 78:**

The site owner and site operator could be held liable under 30 TAC §330.4(b), which provides:

...[N]o generator, transporter, owner or operator of a facility, or any other person may cause, suffer, allow, or permit wastes to be stored, processed, or disposed of at an unauthorized facility or in violation of a permit. In the event this requirement is violated, the executive director may seek recourse against not only the person who stored, processed, or disposed of the waste but also against the transporter, owner or operator, or other person who caused, suffered, allowed, or permitted its waste to be stored, processed, or disposed.

**Comment No. 79:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked what will happen if a strong rain occurs while waste is being dumped from trucks. Adjacent landowners also questioned if a strong rain occurs at the end of the day, but before it is covered up, how will the contaminants be contained.

**Response No. 79:**

Untreated contaminated water may not be discharged from the site. Storm water which comes into contact with solid waste will be considered contaminated water. All discharge of storm water shall be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the

Texas Pollutant Discharge Elimination System (TPDES) requirements, as applicable. In addition, if a permit is issued, the landfill will have a leachate collection system which will collect any rainwater which percolates through the waste.

**Comment No. 80:**

Webb County Commissioner Judith Gutierrez, Mayor Elizabeth Flores, and Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the facility may result in pollution or unreasonable risk of contamination of surface waters. They contend that the issuance of the permit would be inconsistent with state policies that prohibit discharges and actions that could result in pollution of surface waters of the state, since no person may cause or allow the collection, storage, disposal, transportation, or processing, of municipal solid waste in a fashion that results in the discharge or imminent threat of discharge of municipal solid waste into or adjacent to the waters in the state. The aforementioned Commenters also asked whether the facility needs a TPDES permit or whether it will be covered by a City of Laredo permit.

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the permit would create unreasonable risks of contamination of ground and surface waters of Coalition members and others, because of an inadequate application and improper design.

**Response No. 80:**

The TEX. WATER CODE and the TCEQ's rules prohibit the unauthorized discharge of solid waste or pollutants into water of the state. The Applicant proposes to collect all contaminated water and leachate for storage onsite for transport offsite to a wastewater treatment plant. If operated according to the applicable statutes and the terms of the draft permit, the ED does not expect any unauthorized discharges from the facility.

The TCEQ's rules establish specific criteria that applicants are required to follow in designing a system to handle, store, treat, and dispose of surface or ground water that has become contaminated by contact with the working face of the landfill or with leachate. The criteria include a demonstration that storage areas for contaminated water are designed for proper size, location, and method of disposal. In addition, contaminated water storage areas must have an approved liner covering the bottom and site slopes. The Applicant proposes to collect all contaminated water and leachate for storage onsite for transport offsite to a wastewater treatment plant. The application contained sufficient information for the ED to determine that these requirements would be met.

The facility may require a TPDES discharge permit for the discharge of storm water (not leachate or contaminated water) managed in the facility drainage system. The facility will not be covered by the City of Laredo's TPDES permit; TPDES permitting is managed by the TCEQ Water Quality Division and is not a part of this permit application.

**Comment No. 81:**

Webb County Commissioner Judith Gutierrez, stated that existing junkyards along State Highway 359 result in runoff that leads to contamination of surface waters.

**Response No. 81:**

The TEX. WATER CODE and the TCEQ's rules prohibit the unauthorized discharge of solid waste or pollutants into waters of the state. Individuals who observe potential discharges to surface water should call the TCEQ's Region 16 office in Laredo at (956) 791-6611, or call the toll-free Environmental Violation Hotline at 1-888-777-3186.

**12. EROSION CONTROL**

**Comment No. 82:**

Webb County Commissioner Judith Gutierrez, City Council of Laredo, and Mayor Elizabeth Flores stated they had concerns, because the proposed landfill would utilize a 3:1 ratio side slope. Commissioner Gutierrez also expressed concerns about soil erosion from the final cover system that could negatively impact the environment of the surrounding area. Commissioner Gutierrez also stated that it is critical to exercise environmental conciseness and maintain only waste handling operators that protect soil conservation practices.

Mr. Leo Flores stated he believed that the site's location presents a danger to motorists and the sloping terrain will lead to soil erosion.

**Response No. 82:**

As part of the application process, the Applicant must provide design data on final cover slopes and design features intended to minimize erosion. The Applicant here has proposed design features, including vegetation of slopes, berms and let-down structures that will maintain low non-erodible velocities on the slopes and will result in losses to the proposed erosion layer of the final cover that are within TCEQ guidelines. In addition, as part of site maintenance requirements during the active life of the facility and the thirty year post-closure care period, the Applicant will monitor for slope erosion and will implement measures to repair areas where excessive erosion may occur.

**Comment No. 83:**

Mr. Guillermo Cavazos asked if Mr. Pepe Trevino will be personally liable for erosion when the landfill is 130 feet tall.

**Response No. 83:**

With regard to on-site erosion, the site owner is required to maintain the final cover, including any erosion losses. Concerning off-site erosion, the ED reiterates that the permit, if granted, would not allow the Applicant to maintain a condition of nuisance that would interfere with a landowner's use and enjoyment of his property. Furthermore, if the permit were approved, it would not limit the ability of a landowner to use common law remedies for nuisance in response to activities that interfere with his use and enjoyment of his property.

**Comment No. 84:**

Mr. Guillermo Cavazos asked if Mr. Roberto Trevino tested wind velocity at 135 feet high to determine how far dust and debris will go. Mr. Guillermo Cavazos and Mr. Javier Pena expressed

concerns regarding the possibility of blowing litter and dust resulting from operation of the proposed facility.

**Response No. 84:**

There is no information in the application which indicates that the Applicant measured wind velocities 135 feet high. According to the TCEQ's rules, the operator of a landfill is responsible for collecting windblown waste and litter and returning it to the active disposal area or working face as necessary. The operator may do so by means of a portable fence or any other suitable practice to control windblown waste. The operator must also regularly police the landfill area, access roads, and gate area at least weekly and return the material to the active disposal area or working face. The operator is also required to take whatever steps are necessary to ensure that vehicles hauling waste to the site are enclosed or provided with a tarpaulin, net, or other means to properly secure the load in order to prevent material from being blown or spilled. The operator must post signs, report offenders to proper law enforcement officers, add surcharges to the tipping fee for unsecured loads, or similar measures. The operator is also responsible for the cleanup of waste materials spilled along and within the right-of-way of public access roads serving the site for a distance of two miles in either direction from any entrance used for the delivery of waste to the site. The Applicant has proposed to limit the potential from blowing dust from the facility by using a water truck for on-site roads to minimize dust resulting from vehicular traffic.

**Comment No. 85:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked how waste from the side slopes will be prevented from flowing into surrounding areas including the Lobo Creek, the Blancos Creek, and the Dolores Creek. These adjacent landowners asked if it was possible to compact fill on a 33% incline, and stated that during heavy rain erosion will carry this waste to other areas. The adjacent landowners stated that there are no provisions in the application for a retention pond large enough to handle runoff from the approximate 400 acres of landfill.

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, stated that if anyone goes to a landfill above ground they will see trash and contaminants exposed on the slopes of the landfill. The adjacent landowners stated that this will eventually end up on nearby properties, and asked how this could be prevented.

**Response No. 85:**

A final cover can be constructed on a 33 percent slope. A final cover system designed to meet the requirements of 30 TAC § 330.253 must be placed on the above-grade waste to limit the infiltration of rainfall and prevent washout of solid waste. The final cover will have drainage terraces which will minimize erosion and transport runoff to the drainage channels. Drainage structures are designed to handle runoff from a 24-hour, 25 year storm event as required by the regulations.

According to the application, the working face will be covered daily to control windblown trash. Litter fences will also be used to control windblown trash and litter, and litter and windblown trash will be picked up.

**Comment No. 86:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, expressed concerns about airborne contaminants that may come into contact with wind as the waste is being dumped from the trucks.

**Response No. 86:**

The proposed Ponderosa Regional Landfill must comply with any applicable requirements of the approved State Implementation Plan developed under the Clean Air Act. The landfill will operate in accordance with the federal New Source Performance Standards. These programs are administered by the TCEQ's Office of Air Quality.

**13. SITE OPERATIONS**

**13A. Odor**

**Comment No. 87:**

Mr. Jorge Cavazos and Ms. Olga Alvarado asked how far odors from the landfill will travel. Mr. Cavazos stated that he didn't know if the TCEQ had any information about the environmental impact or physical effects of the smell that would probably permeate in the air of the surrounding area. Mr. Cavazos stated that he thought this would be a practical consideration, because most of the landowners nearby spend their days outdoors on their ranch.

**Response No. 87:**

The ED does not have information regarding the environmental effects and physical effects of smell. An owner or operator is prohibited from operating a landfill in a manner which causes the creation and maintenance of a nuisance condition pursuant to 30 TAC § 330.5(a). Complaints about odor should be directed to the TCEQ's Region 16 office in Laredo at (956) 791-6611, or to the toll-free Environmental Violation Hotline at 1-888-777-3186.

**Comment No. 88:** Mr. Javier Pena stated that the winds blow out of the southeast and sometimes gust up to 30-50 miles per hour in bad times. Mr. Pena stated that if you are going to have a site with 500 acres total, which will rise to a height of up to 130 feet right next to the highway, then it can be foreseen that there will be problems with flying debris, dust, and trash.

Ms. Patricia Barrera asked if anyone was aware of the summer breeze that blew most of the year from the southwest or southeast. Ms. Barrera stated that the landfill aroma and fragrance will blow to the colonia residents and the City of Laredo.

Mr. Alberto Alvarado stated that the wind blows out of the south most of the time if not all the time, and questioned how one can say that a dump site will not impact any of the surrounding area.

Mr. Alfredo Perez said that he needed more information about the site, and explained that he lives on the north side of the site, and as a result there will be air continually blowing into his house.

Mr. Jorge Cavazos, Mr. Alberto Alvarado, Mr. Alfredo Perez, and Mr. Richard Lowerre along with members of the Highway 359 Landowners Coalition, expressed concerns regarding possible odors from the proposed facility.

**Response No. 88:**

The TCEQ rules require the proposed facility to be operated in such a way as to prevent the occurrence of nuisance odor conditions. Various features of the proposed site operation, including daily covering of waste and prevention of ponded water, should control the development of such odor conditions. Nevertheless, the TCEQ's rules state that if objectionable odors occur, the Applicant must initiate appropriate measures to alleviate the condition. The application contained sufficient information for the TCEQ to determine that the TCEQ's regulations would be met. Of the 500 acres on the proposed site, only 347 acres will be used for actual landfilling operations, and the active working face of the proposed landfill will typically be less than 5 acres.

**13B. Permit Life**

**Comment No. 89:**

Mr. Antonio Flores stated that if the permit is approved for 95 years then it would be way too long and would keep the landowners hostage for 95 years, and would not only include the current landowners, but also the heirs and future generations that may own land in the area.

Mr. Antonio Flores and Mr. Federico Cavazos stated that they believe the estimated site life of the proposed facility is too long.

Mr. Federico Cavazos asked how many years the landfill will be in operation.

**Response No. 89:**

Pursuant to 30 TAC § 330.63, MSW permits are normally issued for the life of the site, but may be revoked at any time if the operating standards do not meet the minimum standards in the TCEQ's rules. For the proposed 347 acre disposal area, the estimated site life is 94 years for an average waste generation rate of 1500 tons per day. However, the site life may change depending on waste generation and acceptance rates.

**Comment No. 90:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, stated that at the first public meeting the TCEQ representatives stated that waste could be brought from any part of the country. The adjacent landowners asked if this meant that Webb County will be a dumping ground for the entire country for the next 95 years.

**Response No. 90:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization

& Recycling); and Chapter 330 (Municipal Solid Waste). The TCEQ does not have the authority under the Solid Waste Disposal act to prevent a landfill from accepting waste from other counties or other states.

### 13C. Blowing Trash

#### **Comment No. 91:**

Mr. Javier Pena and Mr. Guillermo Cavazos asked who will be liable for damages from flying debris sent by the landfill to the adjacent property.

#### **Response No. 91:**

TCEQ rules at 30 TAC § 330.155 state that if a facility is not completely enclosed, the owner or operator shall provide a wire or other type of fence or screen when necessary to minimize windblown materials. In addition, litter or windblown material resulting from operations must be collected and returned to the processing area at least twice per week to minimize unsightly conditions and fire hazards.

If a permit is issued, and the Applicant violates these rules, enforcement proceedings could be initiated by the TCEQ. In addition, if the permit is approved, it would not limit the ability of a landowner to use common law remedies for nuisance in response to activities that interfere with his use and enjoyment of his property.

According to the application, the working face will be covered daily to control windblown trash. Litter fences will also be used to control windblown trash and litter, and litter and windblown trash will be picked up.

### 13D. Types of Waste

#### **Comment No. 92:**

Mr. Guillermo Cavazos asked how much or what percentage of the wastes coming to the landfill will be liquid wastes. Mr. Cavazos also stated that it will be unknown what type of waste will be at the bottom of each trash load allowing for illegal material to be put into the landfill.

Adjacent landowners, in questions submitted through State Senator Judith Zaffirini, asked who will ensure that prohibited wastes, identified as “wastes not to be accepted,” will not be put into the landfill. Adjacent landowners also asked if each truck load will be examined and inquired whether all plastic containers will be opened to make sure that these prohibited wastes are not put into the landfill. Adjacent landowners asked if the TCEQ expected the “fox to guard the henhouse.”

Mr. Armando Aguilar and Ms. Mary Louise Cavazos asked what kind of waste will be going into the landfill, and whether the waste will consist of type I, II, III or IV wastes or special waste like bio-hazards.

**Response No. 92:**

The proposed landfill is a Type I landfill, which is considered the standard landfill for the disposal of municipal solid waste. Treated special wastes from health care related facilities may be accepted. Other special wastes may also be accepted for disposal as stipulated in 30 TAC § 330.136. Under 30 TAC § 330.117©), “The unloading of prohibited wastes at the municipal solid waste facility shall not be allowed,” and the owner or operator must take, “[n]ecessary steps...to ensure compliance with this provision....and [a]ny prohibited waste shall be returned promptly to the transporter or generator of the waste.” Under 30 TAC § 330.114(5), the Applicant is required to submit a Site Operating Plan that includes procedures for the detection and prevention of the disposal of regulated hazardous waste as defined in 40 C.F.R. part 261 and of polychlorinated biphenyls (PCB) wastes as defined in 40 C.F.R. part 761. The Applicant complied with these requirements by submitting documentation regarding the detection and prevention of the disposal of hazardous wastes. Acceptance of liquid waste would not be authorized, other than incidental amounts contained in household waste (other than septic tank waste).

**Comment No. 93:**

Webb County Engineer Tomas M. Rodriguez, Jr., and adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked what “special wastes” are. Mr. Rodriguez asked if these were toxic wastes or dry sludge from wastewater treatment plants.

**Response No. 93:**

Under, 30 TAC § 330.2(141), “special waste” is defined as:

--Any solid waste or combination of solid wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment.

“Special waste” includes “hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls,” under 30 TAC §§ 335.401 - 335.412 (relating to Household Materials Which Could Be Classified as Hazardous Waste) 30 TAC § 330.2(141)(A). Special wastes can also include, “municipal wastewater treatment plant sludges, other types of domestic sewage treatment plant sludges, and water-supply treatment plant sludges,” 30 TAC § 330.2(141)(D).

**Comment No. 94:**

Mr. Federico Cavazos asked what are the maximum tons per day and the minimum tons per day quota (often called “put or pay clauses”) the landfill will accept. Mr. Cavazos also asked, if there is a minimum per day quota, then who is responsible for finding the additional tonnage or the money in lieu of the tonnage.

**Response No. 94:**

The TCEQ has jurisdiction over certain municipal solid waste matters pursuant to Chapter 361 of the Texas Solid Waste Disposal Act, and Title 30 of the Texas Administrative Code Chapter 281 (Applications Processing); Chapter 305 (Consolidated Permits); Chapter 328 (Waste Minimization & Recycling); and Chapter 330 (Municipal Solid Waste). However, the public comment pertains to an issue that is outside the scope of this agency's jurisdiction.

**Comment No. 95:**

Mr. Federico Cavazos asked what type of garbage the landfill will accept, and wanted to know if the landfill will be filled with: municipal solid waste, medical waste, hazardous, low level radioactive waste, below regulatory concern waste, special waste (often incinerator waste), incinerator ash, industrial solid waste, demolition debris, and other waste. Mr. Cavazos also asked whether the Applicant will be putting recyclables in the landfill, and if the Applicant will be putting clean organic compostables in the landfill such as yard wastes. Last, Mr. Cavazos asked if the Applicant was going to be putting recyclables and organic compostables in the landfill, and whether such wastes were going to be put into separate cells.

Ms. Monica Flores Dunn, Mr. Peter Merritt Dunn, Jr., Mr. Peter Merritt Dunn, and Ms. Isabel Flores Stellema (members of the Highway 359 Coalition) stated that they wanted to know what type of waste was going to be taken to the new site and whether toxic wastes were going to be imported from other states.

Some of the aforementioned Commenters, along with Mr. Antonio Aguilar, expressed concerns regarding the identified sources, nature, types, and estimated quantities of waste to be managed at the facility, and asked for a description of "special waste."

**Response No. 95:**

This facility will accept municipal solid waste, which is defined in 30 TAC § 330.2 (78), as solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, putrescible wastes, rubbish, ashes, brush, street cleaning waste, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste. Special wastes in accordance with 30 TAC § 330.136 (b) and ©) may be accepted. The Applicant is not required to dispose of recyclable materials or organic compostables in separate cells.

This facility will not accept PCB (polychlorinated biphenyl) wastes, regulated hazardous wastes, Class 1 industrial solid wastes requiring executive director approval, untreated special wastes from health-care related facilities, and other wastes prohibited by TCEQ regulations.

**Comment No. 96:**

Mr. Guillermo Cavazos stated that if the City of Laredo does not use this landfill, then the projections without Laredo show only 84 tons per day. Mr. Cavazos asked where the other 716 to 5,816 tons will be coming from every day, and wanted to know if the Applicant planned to bring in

trash and waste by rail from outside the 4 county area. Last, Mr. Cavazos asked if this landfill were ever sold will the new buyers be able to do the same.

**Response No. 96:**

The Application does indicate that waste will be brought to the site by rail and would not be prohibited from doing so. If the permit is issued and the landfill is later sold, the new owner would be free to accept waste from other areas. As previously stated, the TCEQ does not have the authority to prohibit a landfill from accepting waste from other counties or other states.

**Comment No. 97:**

Mr. Guillermo Cavazos stated that noxious gas will flow to adjacent properties.

**Response No. 97:**

An owner or operator of an MSW landfill is prohibited from operating a landfill in a manner which causes the creation and maintenance of a nuisance condition pursuant to 30 TAC § 330.5(a). Complaints about odor should be directed to the TCEQ's Region 16 office in Laredo at (956) 791-6611, or to the toll-free Environmental Violation Hotline at 1-(888)-777-3186.

Pursuant to 30 TAC § 330.56(n) all owners or operators of MSW landfills shall ensure that the concentration of methane gas generated does not reach dangerous limits. Landfill operators are required to implement a routine methane monitoring program to ensure that TCEQ standards are met. If methane gas limits exceed the limits specified in TCEQ rules, the operator must immediately take all necessary steps to ensure protection of human health and notify the ED, local and county officials, emergency officials, and the public. The Applicant has prepared a landfill gas management plan which can be found in attachment 14 of the Site Development Plan.

13E. **Source of Waste**

**Comment No. 98:**

Laredo City Manager Larry Dovalina, addressed the question pertaining to where the waste was going to be generated from.

Webb County Commissioner Judith Gutierrez, Mayor of Laredo Elizabeth Flores, and Mr. Guillermo Cavazos stated that they had concerns, because it is unclear where the waste is going to be coming from. Mr. Daniel Flores, Jr., asked if there was the possibility that the landfill might be collecting trash from New York.

Mr. Federico Cavazos asked how much of the daily garbage tonnage will come from town, county, state, or out-of-state sources.

**Response No. 98:**

Based on information in the application, the principal source of waste is expected to be primarily daily residential and commercial/industrial waste collection from the primary service area of the

South Texas Region, including the Webb County subregion and the City of Laredo. However, waste may be received from other areas, including other states. Based on the application, it is estimated that the site will receive an average of approximately 1,500 tons of waste per day.

### 13F. **Previous History**

#### **Comment No. 99:**

Mr. Armando Aguilar and Ms. Mary Louise Cavazos stated that they wanted to know if the company that is going to operate the proposed landfill has other landfills. They also wanted to know the record for the company related to efficiency and containment of operations. Mr. Aguilar stated that if they did not have other landfills, then he would like to know the credentials of the operators of the landfill.

#### **Response No. 99:**

Regional Land Management Services, Ltd. has never owned or operated a Texas solid waste site. The application states that Mr. Roberto Trevino, general partner of Regional Land Management Services, Ltd., has been involved in the waste business for 26 years. Mr. Trevino has a Class C Solid Waste Technician Letter of Competency from the TCEQ.

#### **Comment No. 100:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated that the compliance history presented is not correct, because the operator has a history of operations that have not been evaluated by the TCEQ.

#### **Response No. 100:**

Information available to and reviewed by the ED, including statements contained in the application and a review of TCEQ records, does not identify any compliance-related information about the Applicant.

### 13G. **Recycling**

#### **Comment No. 101:**

Ms. Juanita Martinez opposed the landfill site construction, unless there were provisions/requirements/conditions to recycle gases such as: methane, steam for the production of electricity, construction waste, and other recyclable materials, as well as periodic dusting for leakage of the lining and gases, periodic and frequent testing of the environment for adverse affects, fauna, flora, and also the water table.

#### **Response No. 101:**

The TCEQ promotes recycling as a preferred method of waste reduction. However, the TCEQ lacks the authority to require recycling as part of the permitting process for a municipal solid waste disposal facility; therefore, such requirements are not included in the draft permit.

## 14. ILLEGAL DUMPING, BURNING WASTES, AND JUNKYARDS

### **Comment No. 102:**

Mr. Guillermo Cavazos asked if Mr. Pepe Trevino will be personally liable for cleaning up illegal dumping that is attracted to this area, because of the landfill visibility to a major highway.

### **Response No. 102:**

A site operator is responsible for waste that is left on his property; however the site operator is not responsible for illegal dumping conducted by other people outside of his property boundary.

### **Comment No. 103:**

Mr. Guillermo Cavazos stated that the proximity to Mexico poses an additional hazard due to Mexican assembly plants bringing illegal waste into the proposed landfill site.

### **Response No. 103:**

The Applicant is not proposing to accept maquiladora waste. Under 30 TAC § 330.117©), “The unloading of prohibited wastes at the municipal solid waste facility shall not be allowed,” and the owner or operator must take, “[n]ecessary steps...to ensure compliance with this provision....and [a]ny prohibited waste shall be returned promptly to the transporter or generator of the waste.” Under 30 TAC § 330.114(5), the Applicant is required to submit a Site Operating Plan that includes procedures for the detection and prevention of the disposal of regulated hazardous waste as defined in 40 C.F.R. part 261 and of polychlorinated biphenyls (PCB) wastes as defined in 40 C.F.R. part 761. The Applicant complied with these requirements by submitting documentation regarding the detection and prevention of the disposal of hazardous wastes.

### **Comment No. 104:**

Webb County Commissioner Judith Gutierrez and Mayor Elizabeth Flores stated that illegal dumping is a problem in Webb County and in the City of Laredo, and expressed concerns regarding burning of waste.

Webb County Commissioner Judith Gutierrez and Mr. Luis A. Diaz de Leon stated there are junkyards and illegal dumping that occur in the Highway 359 area, and said that these sites are a health concern to the residents of the colonias. Mr. Diaz de Leon stated that one of the biggest problems in the colonias is that residents burn their own garbage because there is no county system to pickup their garbage. Commissioner Gutierrez also said that she is concerned about contamination of nearby tributaries, because Webb County has only one code enforcement officer for the entire county.

### **Response No. 104:**

One of the primary objectives of the TCEQ municipal solid waste program is to ensure that solid waste is disposed of in authorized facilities that are designed, constructed, and operated to protect human health and the environment. Despite legal requirements and TCEQ enforcement policies,

illegal dumping does still sometimes occur. The facility proposed by the Applicant would be a Type I municipal solid waste landfill at which the disposal of municipal solid waste and certain special wastes would be authorized. TCEQ rules prohibit the burning of waste at landfill facilities, and persons who observe illegal dumping or burning of waste should notify TCEQ's Region 16 Office in Laredo at (956) 791-6611 or call the toll-free Environmental Violation Hotline at 1-888-777-3186.

**Comment No. 105:**

Webb County Commissioner Judith Gutierrez, representing the Highway 359 area, stated that junkyards had been continually cropping up in the City of Laredo, and after the city enforced their ordinances the junkyards began to move out into the 359 area. The Commissioner expressed her concern for the abundance of junkyards and vehicle graveyards in the area resulting in oil being released from abandoned vehicles. The Commissioner stated that there was a health concern and danger of contaminating the local tributaries.

**Response No. 105:**

Illegal dumping should be reported to the TCEQ's Region 16 Office in Laredo at (956) 791-6611, or to the toll-free Environmental Violation Hotline at 1-(888) 777-3186.

15. **ENFORCEMENT**

**Comment No. 106:**

Mr. Guillermo Cavazos stated when trash blows into his property; when it gets infested with rats; or when his water gets polluted---who will he call. Mr. Cavazos asked who is going to answer the phone and say they will send a truck right over to pick up the dead rats. Mr. Cavazos asked who will go over there and pick up all the trash that blew over, or who will take care of all the toxic waste that goes into his creek.

**Response No. 106:**

The site operator is required to control windblown litter. Complaints about wind blown trash should be directed to the TCEQ's Region 16 office in Laredo at (956) 791-6611, or to the toll-free Environmental Violation Hotline at 1(888)777-3186. Pursuant to 30 TAC § 330.126, the site operator is required to take appropriate steps to prevent and control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods when needed. As previously discussed, unauthorized discharges into areas creeks or other water in the state is prohibited.

**Comment No. 107:**

Ms. Mary Louise Cavazos stated that if, as Brent Ryan (the Regional Land Management Director of Regulatory Affairs) says, the TCEQ is one of the most stringent state regulatory agencies, then how can one justify monitoring a private landfill once a year when a lot of contamination, environmental damage, and ecological effects can occur in one year.

Mr. Guillermo Cavazos stated that the TCEQ will inspect the landfill one day out of the year, and asked who will check the many complicated requirements the other 364 days out of the year.

Adjacent landowners, in questions submitted through State Senator Judith Zaffirini, asked if trash or contaminants are found on adjacent properties, who can the affected landowners call to report this and how soon can they expect the areas to be cleaned up.

**Response No. 107:**

The Applicant is required to comply with the provisions under 30 TAC Chapter 330 year-round. In addition, citizens can report to TCEQ about possible discharges into the environment by reporting suspected incidents of noncompliance to the TCEQ at the Laredo Region 16 office at (956)-791-6611 or by calling the Environmental Violations Hotline at 1-(888) 777-3186. In response to a complaint the regional investigators will investigate the alleged nuisance conditions at the facility. If the regional investigator documents a violation of TCEQ regulations, then appropriate action would be taken according to TCEQ's policies, which may include referral for an enforcement action.

Under 30 TAC § 330.4(a), “no person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any municipal solid waste, unless such activity is authorized by a permit or other authorization from the Texas Water Commission;” *see also* § 330.4 (c)-(h). “In the event this requirement is violated, the executive director may seek recourse against not only the person who stored, processed, or disposed of the waste but also against the transporter, owner or operator, or other person who caused, suffered, allowed, or permitted its waste to be stored, processed, or disposed,” 30 TAC § 330.4(b).

Under 30 TAC § 37.8001, the facility is required to demonstrate financial assurance for closure, post closure, and corrective action. Finally, owners or operators must comply with Subchapters A, B, C, and D of Chapter 37 (relating to General Financial Assurance Requirements; Financial Assurance Requirements for Closure, Post Closure, and Corrective Action; Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action; and Wording of the Mechanisms for Closure, Post Closure, and Corrective Action) *see also*, 30 TAC §§ 330.280-284.

**Comment No. 108:**

Ms. Maria E. Guerra stated that the TCEQ is famous for failing to enforce the environmental laws of the State of Texas, and for making decisions weighted to favor business. Ms. Guerra stated that as a journalist she chronicled this in the watershed over the last six years. Ms. Guerra stated that there are many monuments in Laredo, Webb County, and Zapata County that resulted because of the TCEQ's lack of regard for the environment and for its unwillingness to enforce state law. Ms. Guerra stated that it is of little assurance to her and the other people in this room that, in the TCEQ's opinion, there will be no environmental consequence for a landfill operation of this magnitude on the Rio Grande watershed.

Ms. Mary Louise Cavazos stated that the TCEQ should increase its inspections of municipal solid waste facilities.

Mr. George Altgelt and Ms. Maria Guerra stated that the TCEQ is unwilling to enforce the law.

**Response No. 108:**

Through its Office of Compliance and Enforcement (OCE), TCEQ has developed and implements regular facility inspections. All MSW facilities are inspected at least once a year by personnel from the TCEQ Field Operations Division. The frequency of these inspections is generally a function of the number of facilities and personnel availability. In addition, TCEQ has a policy of investigating and responding to all complaints. As a result some facilities are inspected several times a year. TCEQ has statutory and regulatory mechanisms for enforcing laws and rules within its jurisdiction and acts vigorously in evaluating potential instances of non-compliance and initiating enforcement actions where appropriate.

The TCEQ also relies on members of the public to alert the agency if they witness environmental violations. Anyone may report suspected incidents of environmental violations to the TCEQ at the TCEQ's Region 16 office in Laredo at (956) 791-6611, or to the toll-free Environmental Violation Hotline at 1-(888)777-3186.

**Comment No. 109:**

Mr. Guillermo Cavazos asked if the owners of the Ponderosa landfill, Mr. Pepe Trevino, Jr., Mr. Pepe Trevino III, Mr. Roberto Trevino, and Ms. Diana Trevino Garcia, will be legally liable for any damages to adjacent properties.

Mr. Guillermo Cavazos asked if Mr. Pepe Trevino will be personally liable for contamination of surrounding properties.

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked what the remedy would be if contamination is found to be occurring on property outside of the landfill. Adjacent landowners also asked who will be responsible clean-up.

**Response No. 109:**

The site owner and site operator are responsible for the operations and activities of the facility.

**Comment No. 110:**

Mr. Guillermo Cavazos stated that there are no provisions for monitoring wells, and wanted to know how liquid waste can be detected if it goes into adjoining property.

**Response No. 110:**

Groundwater monitoring is not required under 30 TAC § 330.231 if there is no uppermost aquifer present at the site. The Applicant, based on the data provided in the application, has demonstrated that no uppermost aquifer exists in the vicinity of the landfill, therefore, ground-water monitoring is not required for this site.

## 16. VECTORS

### **Comment No. 111:**

Mr. Jorge Cavazos stated that his father, Mr. Guillermo J. Cavazos is trying to preserve his land where birds can congregate, and he stated that some of these birds would probably eat the waste at the landfill. Mr. Cavazos wanted to know the probability of the birds eating something toxic and getting mutations that could hurt their overall health and population.

Mr. Daniel Flores, Jr., and Mr. Guillermo Cavazos stated that rodents, birds, and other disease carrying pests will be drawn to the area causing disease to migrate to adjacent properties.

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked if disease carrying rodents and insects will be attracted to this pile of waste.

Dr. Manual Gonzalez stated that he had created a 25 foot deep small lake next to the proposed landfill site, and then rainfall fell overnight. He stated that upon further observation it could be found that tons of birds could be seen throughout the proposed landfill area. He stated that there should be a concern for the large bird population within a proximity to the proposed landfill.

### **Response No. 111:**

Under 30 TAC § 330.126, "The site operator shall take the appropriate steps to prevent and control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods when needed." The Applicant's proposed operating plan complies with the TCEQ requirements.

## 17. FINANCIAL ASSURANCE

### **Comment No. 112:**

Mr. Guillermo Cavazos asked who has the responsibility for damages to affected property owners. Mr. Cavazos questioned the way the operation was going to be set up, and wanted to know if it was going to be set up by corporation or a limited partnership without any assets. Mr. Cavazos asked the TCEQ what recourse landowners will have for damages that are caused during the operation of the landfill, and whether landowners could retain assistance from the state, since the state sanctioned the operation. Mr. Cavazos also asked if landowners could have assistance from the state in recovering damages.

### **Response No. 112:**

Issuance of a permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse affect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

In addition, under 30 TAC § 37.8001, the facility is required to demonstrate financial assurance for closure, post closure, and corrective action. Landfill owners or operators must comply with Subchapters A, B, C, and D of Chapter 37 of the TAC (relating to General Financial Assurance Requirements; Financial Assurance Requirements for Closure, Post Closure, and Corrective Action; Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action; and Wording of the Mechanisms for Closure, Post Closure, and Corrective Action) *see also*, 30 TAC §§ 330.280-284. The Applicant has complied with these requirements and provided evidence of financial assurance.

**Comment No. 113:**

Mr. Federico Cavazos asked how long the operators of the landfill will be responsible for the landfill once it is closed (often referred to the post-closure period), and who will be responsible once the post-closure period is over.

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked whether the TCEQ required the owners of the landfill to post a bond for future precaution in caring for contamination of groundwater and land outside the landfill.

**Response No. 113:**

The site owner and operator are responsible for the landfill during the post-closure care period. TCEQ rules require a post closure maintenance period of 30 years, unless the ED determines otherwise. The owners of the property will be responsible for the property once the post-closure care period is complete.

**Comment No. 114:**

Mr. Richard Lowerre and members of the Highway 359 Landowners Coalition stated the proposed financial assurances are inadequate, because closure and post-closure care costs are not based on closure by third parties; the need to bring water and dirt to the site; and the failure of the liner or the shifting of the landfill, etc.

**Response No. 114:**

Information in the application regarding both closure and post-closure care costs is based on the cost of hiring a third party to perform the required activities. The ED has determined that the closure and post-closure care plans presented in the application properly identify those elements that should be included in the closure and post-closure care plans and cost estimates, and the cost estimates presented were reasonable. The information submitted regarding the proposed facility contained the information for closure and post-closure care costs, and was sufficient to meet the requirements of the regulations.

18. **HEALTH CONCERNS**

**Comment No. 115:**

Dr. Manuel Gonzalez, Mayor of Laredo Elizabeth Flores, Mr. Fernando Flores, and Mr. Luis A. Diaz

de Leon stated the TCEQ should not approve this permit, because it will endanger the health of the children and the well being of the colonias.

Webb County Commissioner Judith Gutierrez stated that Webb County finds the application for the proposed landfill to be inconsistent with the safety and environmental health priorities of Webb County.

Dr. Manuel Gonzalez stated health concerns will be an issue when southwest winds blow over a 15 story tower of trash across acres and acres of people who don't have air conditioning and who keep their windows wide open. Adjacent landowners in questions submitted through State Senator Judith Zaffirini, asked what will happen to contaminants coming into contact with wind when the landfill is 130 feet high. Adjacent landowners also questioned whether a study has been done.

Ms. Juanita Martinez stated contaminants that filter into the water base will affect the health of the families living within a 3 mile radius bring disease and epidemics to the rest of the city.

Webb County Commissioner Judith Gutierrez, Dr. Manuel Gonzalez, and Mr. Lowerre along with the members of the Highway 359 Landowners Coalition expressed concern for potential health effects from the proposed facility.

**Response No. 115:**

The landfill has been designed in compliance with the rules and regulations, which were developed to protect human health and the environment. If the proposed landfill is constructed and operated as indicated in the application and as required by the regulations, the ED expects human health and the environment to be protected. The working face will be covered daily to control windblown trash. Litter fences will also be used to control windblown trash and litter. Litter and windblown trash are required to be picked up. No study has been done on the effects of wind on contaminants at this proposed site.

**Comment No. 116:**

Mr. Luis A. Diaz de Leon expressed concern about possible health threats to children, and stated that the Rio Grande is considered one of the most polluted rivers in the nation.

Mr. Alfredo Perez stated that the proposed landfill is not convenient to him, because he has small children. Mr. Perez asked if they are going to be injured if the proposed landfill ensues.

Mr. Juan Medellin stated that he opposes this landfill, because he has a child who is on medication for his asthma and if the landfill is built he will have to move. Mr. Medellin stated that he used to live in Dallas, but he had moved since there was so much pollution. Mr. Medellin said if the landfill is built, then he will have to move again.

Webb County Engineer Thomas M. Rodriguez, Jr., stated that he is particularly concerned about health issues as they may effect adjacent lands.

**Response No. 116:**

The landfill has been designed in compliance with the rules and regulations, which were developed to protect human health and the environment. If the proposed landfill is constructed and operated as indicated in the application and as required by the regulations, the ED expects human health and the environment to be protected. The Applicant is not proposing to discharge any contaminated water to the Rio Grande River.

**Comment No. 117:**

Webb County Commissioner Judith Gutierrez, a Webb County representative, Ms. Patricia Barrera, Laredo Mayor Elizabeth Flores, and Mr. Leo Flores stated that there are a number of health concerns in the colonia area. Commissioner Gutierrez said that she and the community have been working with the State of Texas for water and sewer connections to the colonias and Highway 359. Commissioner Gutierrez said that they had worked to obtain funding, approximately 22 million dollars, for water and sewer extensions to improve the quality of life of residents in this area. Commissioner Gutierrez said that the state and federal government have invested millions of dollars in improvements to this area, and this proposed permit jeopardizes these improvements.

**Response No. 117:**

The ED agrees that there are a number of health concerns in the colonia area and supports the efforts by the county to improve the quality of life of residents in the area. The proposed landfill has been designed in compliance with the rules and regulations, which were developed to protect human health and the environment. If the proposed landfill is constructed and operated as indicated in the application and as required by the regulations, the ED expects human health and the environment to be protected.

**Comment No. 118:**

Mr. Leo Flores stated that the community needs the TCEQ to help to keep the air, land, water, and area free of pollution and contamination, so that all neighboring land owners and residents can be free of health issues.

**Response No. 118:**

The TCEQ agrees with this comment. Members of the public may report environmental violations to the TCEQ's Region 16 office in Laredo at (956) 791-6611, or call the toll-free Environmental Violation Hotline at 1-(888)777-3186.

19. **SOUTH TEXAS DEVELOPMENT BOARD APPROVAL**

**Comment No. 119:**

Mayor Flores stated that the proposed facility is inconsistent with the regional solid waste management plan, and contends that the board of the South Texas Development Council (STDC) did not support the application. Mayor Flores explained that she was told that the South Texas Development Board (STDB) Committee supported the Resolution based on erroneous information provided by the Applicant. Mayor Flores also stated that the Committee was led to believe that all

the surrounding landowners were in agreement with this type of business. Mayor Flores believes that this process compromises the integrity of the TCEQ application. Mayor Flores also stated that the application was especially compromised, because the TCEQ was led to believe that the Resolution was approved by the STDB rather than a committee of STDB.

**Response No. 119:**

As previously stated, the Applicant provided information demonstrating the facility's compliance with provisions of the South Texas Regional Solid Waste Management Plan by submitting a letter from the STDB committee indicating that the application is consistent with the regional plan. The TCEQ has not received any further correspondence from the COG indicating that the application is not consistent with the regional plan. The role of the COGs in determining whether permit applications comply with Regional Plans is to make the initial determination of compliance and conformance. Pursuant to Health and Safety Code § 361.089, the Commission makes the determination of whether or not permit applications are in compliance with Regional Plans concurrent with its determination to issue or deny the required permits. The COGs findings are advisory in nature and not binding on the Commission because the Commission is the ultimate decision maker as to whether an application for a solid waste management permit is in compliance with a Regional Solid Waste Management Plan.

20. **MISCELLANEOUS**

20A. **General Questions and Comments**

**Comment No. 120:**

Mr. George Altgelt stated that the TCEQ only has nine people covering several counties, which is not feasible. He explained that with this new project obviously going after the bottom line, there seems to be a little bit of a conflict of interest. Mr. Altgelt noted that there is a contract right now with the city as far as disposing of their waste. Mr. Altgelt also explained that it seems like that contract would obviously be going to Regional Land Management.

Mayor of Laredo Elizabeth Flores stated that the City of Laredo was going to continue to be in the landfill business, and operation of the city landfill would continue.

**Response No. 120:**

The TCEQ relies on the public to assist the agency in reporting environmental violations. Violations should be reported to the TCEQ's Region 16 office in Laredo at (956) 791-6611, or to the toll-free Environmental Violation Hotline at 1-(888)777-3186.

The issue of contracts is outside of the agency's jurisdiction and cannot be considered by the ED during the review of a municipal solid waste landfill application.

**Comment No. 121:**

Mr. Leo Flores, Webb County Planning Director Rhonda Tippen, and Webb County Commissioner

Judith Gutierrez asked if an Environmental Impact Study (EIS) had been done. Mr. Flores stated, that if an EIS had been done, then could the TCEQ share it with the public. Ms. Tippen also stated that the TCEQ should mandate as a minimum requirement that an EIS be prepared for the area and be provided for public comment for all of the residents in Webb County.

Webb County Commissioner Judith Gutierrez, and a Webb County representative stated that with regard to the colonia projects and the millions of dollars that are coming to this area, the TCEQ needs to take a clear look at all of the environmental issues related to the site by evaluating the EIS and the studies that the county has done for the colonias. Commissioner Gutierrez stated she does not understand why there has not been an EIS done on this site which would be very important and crucial to this particular application.

**Response No. 121:**

An EIS study has not been done. An EIS is required for federal actions under the National Environmental Policy Act (NEPA). This application is not for a federal action; therefore, an EIS is not required.

**Comment No. 122:**

Mr. Guillermo Cavazos asked if there was a conflict of interest for Mr. Roberto Trevino to be on the committee that is supporting his proposed landfill application.

**Response No. 122:**

This is not an issue which the TCEQ can consider when reviewing a municipal solid waste landfill application.

**Comment No. 123:**

Mr. Guillermo Cavazos asked if it is fair for citizens that stand to benefit from the location of the Ponderosa landfill to outnumber the representatives of the affected citizens more than 2 to 1 at the public meeting.

**Response No. 123:**

A total of three public meetings were held to ensure that all members of the public who wished to comment on the application and ask questions of the Applicant and the TCEQ had the opportunity to do so.

**Comment No. 124:**

Mr. Leo Flores stated that if the TCEQ approves this application, then it is promoting the building of mountain ranges of trash throughout Texas, with peaks ranging anywhere from 66 feet up to 250 feet high.

**Response No. 124:**

The TCEQ is responsible for reviewing municipal solid waste landfill applications to ensure that the applications meet all regulatory requirements. Permitted landfills attain different heights depending

on a number of different design and location factors. The TCEQ does not promote building landfills at any particular height; rather, the TCEQ ensures that each landfill is built in a manner which is protective of human health and the environment.

**Comment No. 125:**

Ms. Mary Louise Cavazos asked for an explanation of sodium toxicity.

**Response No. 125:**

The ED is not familiar with this term.

**Comment No. 126:**

Adjacent landowners in questions submitted through State Senator Judith Zaffirini, stated that the landfill will cause a loss of potential tax base for Webb County and eventually the City of Laredo, and wanted to know who will be liable for this result.

**Response No. 126:**

The TCEQ has no authority under the Texas Solid Waste Disposal Act to consider the issue of tax bases when reviewing an application for a municipal solid waste landfill.

**Comment No. 127:**

Laredo City Manager Larry Dovalina questioned whether the Applicant or subsidiaries have a franchise with the City of Laredo, which requires them to tip at the city landfill.

**Response No. 127:**

There are no regulatory requirements for submitting any "franchise" information in the permit application which may exist regarding tipping requirements.

**Comment No. 128:**

Mr. Jesus Sanchez voiced his support and approval for the landfill and location.

**Response No. 128:**

The ED acknowledges the comment.

**20B. Liability for Property Damage**

**Comment No. 129:**

Adjacent landowners in questions submitted through Judith Zaffirini, asked who would be liable for damages to private property resulting from operation of the facility and whether the State of Texas would be liable for such damages. Mr. Guillermo Cavazos wanted to know what recourse landowners had for damages caused during the operation of the landfill.

**Response No. 129:**

Regulation of municipal solid waste facilities under the Solid Waste Disposal Act and the TCEQ's

rules is intended to protect public health and the environment and to minimize off-site impacts from the operation of MSW facilities. Specific legal issues regarding damages to private property are outside of the TCEQ's authority under the Solid Waste Disposal Act. However, issuance of a permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse affect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

## 20C. Air Pollution

### **Comment No. 130:**

Ms. Olga Alvarado, Webb County Commissioner Judith Gutierrez, and Mr. Lowerre along with members of the Highway 359 Landowners Coalition expressed concerns regarding potential air quality impacts from the proposed facility, and stated that the issuance of the permit would be inconsistent with state policies that require safeguarding state air quality.

### **Response No. 130:**

Air quality impacts of municipal solid waste facilities are subject to regulation under the Texas Clean Air Act and TCEQ air quality rules as implemented by the Air Permits Division. MSW permit applicants must comply with the requirements of the air permit exemption in 30 TAC § 106.534 and the general requirements for permits by rule at 30 TAC § 106.4. The facility is also subject to the Federal Clean Air Act requirements for Municipal Solid Waste landfills located at 40 C.F.R. 60.750.

## 20D. Local and Elected Official Opposition

### **Comment No. 131:**

Mr. Alfredo Perez, Ms. Cristina Flores Guevara, Dr. Manuel Gonzalez, Mr. Antonio Flores, Mr. Leo Flores, Laredo Mayor Elizabeth Flores, City Council of Laredo, Mr. Guillermo Cavazos, Webb County Commissioner Judith Gutierrez, and Mr. Jorge Cavazos stated that local and elected opposition has not been taken into account.

### **Response No. 131:**

When an application is filed, the ED is required to process the application to determine if it complies with all applicable regulations. The TCEQ's rules specify that notice of an application must be provided to the state senator and representative for the area where the facility will be located; the mayor and health authority of any municipality in whose territorial city limits or extraterritorial jurisdiction the facility is located; and to the county judge and health authority of the county in which the facility will be located. Notice is also required to be published in a newspaper and to be mailed to nearby landowners. The TCEQ considers concerns of the public or local elected officials in reviewing an application.

## 20E. Risk of Theft

### **Comment No. 132:**

Ms. Shirley Spencer expressed concern that the existence of the proposed facility would result in the theft of ranch equipment from nearby property.

### **Response No. 132:**

The granting of a permit does not convey any property rights or interest in either real or personal property nor does it authorize any injury to private property or invasion of personal rights. In accordance with TCEQ rules, the Applicant has proposed fencing the perimeter of the facility. While the primary purpose of such fencing is to control unauthorized access to the facility by persons and livestock, such fencing will also limit access from the facility to adjacent properties

## 20F. Inconsistencies with State and Federal Policies

### **Comment No. 133:**

Mr. Richard Lowerre along with members of the Highway 359 Landowners Coalition, stated that the issuance of the permit would be inconsistent with state policies that: 1) the agency promote the maximum conservation and protection of the quality of the environment and the natural resources of the state; 2) prohibit discharges and actions that could result in pollution of waters [ground or surface] of the state; 3) require the safeguarding of the state's air from pollution; 4) require the control of all aspects of the management of municipal solid waste...by all practical and economically feasible methods consistent with the law; and 5) no person may cause or allow the collection, storage, disposal, transportation, or processing of municipal solid waste in a fashion that: a) results in the discharge or imminent threat of discharge of municipal solid waste into or adjacent to the waters in the state; b) creates or maintains nuisance conditions; or c) endangers human health or welfare or the environment.

### **Response No. 133:**

The TCEQ municipal solid waste rules have been developed to ensure that facilities are designed, constructed, and operated so as to be protective of human health and the environment. The draft permit has been prepared to ensure that authorization to develop and operate the facility is consistent with TCEQ rules, applicable statutory provisions, and the policies of the state the protection of human health and the environment.