

SOAH DOCKET NO. 582-08-2186
TCEQ DOCKET NO. 2006-0612-MSW

APPLICATION OF WASTE MANAGEMENT § BEFORE THE STATE OFFICE
OF TEXAS, INC. FOR A MUNICIPAL §
SOLID WASTE PERMIT AMENDMENT § OF
PERMIT NO. MSW-249D § ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS

The Executive Director (Executive Director) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment on the application by Waste Management of Texas, Inc. (WM or Applicant) for an amendment to TCEQ Municipal Solid Waste Permit Number 249D (Austin Community Recycling and Disposal Facility or Facility).

As required by Title 30 of the Texas Administrative Code (30 TAC) § 55.156, the Executive Director prepares a response to all timely, relevant and material, or significant, comments before issuing a permit. The TCEQ Office of the Chief Clerk received timely comment letters, and comments in writing and orally at the public meeting held April 14, 2008 at which time the comment period ended. This Response to Public Comment addresses all timely public comments received, whether or not withdrawn.

Local and state government officials prepared comments. Specifically, the Executive Director received comments from Clay Collins and Betty Voights of Capital Area Council of Governments (CAPCOG); Samuel Biscoe, Travis County Judge; Gerald Daugherty, Travis County Commissioner Precinct 3, Ron Davis, Travis County Commissioner Precinct 1; Sarah Eckhardt, Travis County Commissioner Precinct 2, Margaret Gomez, Travis County Commissioner Precinct 4; Mark Strama, State Representative District 50; and Kirk Watson, State Senator District 14 and his representative, Susan Nold.

Citizens and citizen groups prepared comments. Specifically, the Executive Director received comments from Mohammad Al-Bedaiwi; Karin Ascot (representing the Austin Regional Group of the Sierra Club); Israel Avila; Joyce Best; Jeremiah Bentley (representing Harris Branch Residential Property Owners Association); Claud and Sharon Bramblett; Jim, Jean, and Kelly Breazeale; Kristen Brown; Chuck Bulygo; Marla Camp; Donna Carlin; Neil Carman, (representing the Sierra Club, Lone Star Chapter); Travis Carter; Doka Cullender; Mauricio and

Marion Childress-Usher; Juan DeAnda; B. Trek English (representing NorthEast Action Group); Erna Ersan; Chris Ferguson; Del Garcia; Janet Gilles; David and Joann Gunlock; Christine Hallock; Edward Johnson; Cam Junker; Ron Junker; Jeff Kessel; Robert Lanford; Sheri Lawson; Dulen Lee; David G. Linzey; Nora Longoria; Pareatha Madison; Tim Mahoney; Anjun Malik; Hussain Malik; James Marchaic; Dr. Belinda Marchand; Lew Martin; Fabian Martinez; Maria Martinez; Helda Martins; Kate McAfee, Melanie and Mark McAfee; Shankar Meganatha; Joy A. Mitchell; Robert and Cindy Montoya; Alto and Rosemary Nauert; Pam O'Connor; Abel Porras; Cecil and Evelyn Remmert; Dr. Delmer Rogers; Joy Ruth; Masood Salami; Cynthia Schiebel; Robin Schneider (representing Texas Campaign for the Environment); Faye Schott; Lyndia Slayton; Roy and Janet Smith; Sandy Smith; Norm Sobecki; Marilyn Speer; John Stockton (Barr Mansion); Robert and Evelyn Thomas; Joyce and Ray Thoresen (representing Walnut Place Neighborhood Association); TJFA, L.P.; Elizabeth Trevino; KC Walter; Jon White, Environmental Officer (representing Travis County); Alfred Wendland; John A. Wilkins; Virginia Wilkins; and Janice Veteran.

The Executive Director received timely letters of support of the proposed permit amendment from April McCullough; Clayton McKay; Theresa Cooke; John Riley; Jimmy Busby; Todd Harper; Brian Mapes; Dennis Siler; Joshua Bennett; Jeramiah Ward; and Dennis Love.

If you would like more information about this application or the permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ Web site at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

Waste Management of Texas, Inc., 9900 Giles Road, Austin, Texas 78754, has applied to the TCEQ for a permit amendment to authorize a lateral expansion to increase the volume and site life of the Austin Community Recycling and Disposal Facility, an existing Type I municipal solid waste landfill facility located on Giles Road approximately 250 feet north of the intersection of Giles Road and Highway 290 in Austin, Travis County, Texas. The proposed lateral expansion will add 71.11 acres to the permitted boundary of the Facility, for a total permitted area of 359.71 acres, while maintaining the current maximum elevation of 740 feet above mean sea level.

The Austin Community Recycling and Disposal Facility is authorized to accept municipal solid

waste, defined as solid waste resulting from, or incidental to, municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste. The Facility also accepts brush, construction-demolition waste, special waste, nonhazardous Class 2 and Class 3 industrial solid waste, and nonhazardous industrial solid waste that is Class 1 only because of asbestos content.

Procedural History

Because this application was administratively complete on or after September 1, 1999; this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999). The Executive Director originally received WM's application on August 26, 2005 and declared it administratively complete on September 15, 2005. The TCEQ Office of the Chief Clerk mailed Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Amendment in accordance with 30 TAC § 39.418 and 30 TAC § 39.501(c) on or about September 15-16, 2005. WM published the amended notice in English in the *Austin American-Statesman* on October 14, 2005, and in Spanish in *El Mundo* on October 14, 2005. The application was revised and submitted again on October 20, 2006 to conform to substantial revisions to 30 TAC Chapter 330 as effective March 27, 2006. The Executive Director declared the application technically complete on January 4, 2008, and prepared a draft permit.

The TCEQ Office of the Chief Clerk mailed the Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit in accordance with 30 TAC § 39.419 and 30 TAC § 39.501(d) on February 8, 2008. WM published its second notice on February 13-14, 2008, in English in the *Austin American-Statesman* and on the same dates in Spanish in *El Mundo*.

Notice of the public meeting and the SOAH Preliminary Hearing was mailed March 12, 2008 and published in accordance with 30 TAC Chapter 80 and 30 TAC § 39.501(e) and (f) on March 27, April 3, and April 10, 2008, in English in the *Austin American-Statesman* and on the same dates in Spanish in *El Mundo*.

The Executive Director held a public meeting on April 14, 2008, in Austin, Texas at the end of which the comment period also closed. A preliminary hearing was held at SOAH offices in Austin, Texas on April 16, 2008 at which time parties were formally established to the contested case hearing, and no notice issues were raised by any party.

The Executive Director considers all timely received, relevant and material, or significant public comments, including those submitted in writing and those stated during the formal comment period at the public meeting held on April 14, 2008.

Rules, Law, and Records

The following Internet sites contain rules, statutory law, and other information that applies to this application.

Texas statutes	tlo2.tlc.state.tx.us/statutes/index.htm
TCEQ rules, codified in Title 30 Texas Administrative Code	http://info.sos.state.tx.us/pls/pub/readtac\$ext.ViewTAC
Secretary of State	www.sos.state.tx.us
Federal statutes and rules	http://www.epa.gov/lawsregs

Because the Applicant elected to resubmit their application, the application was reviewed under the 30 TAC Chapter 330 rules effective on March 27, 2006. All references to 30 TAC Chapter 330 rules are to those rules in effect on March 27, 2006. These rules are available at:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=330](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=330)

TCEQ records for the Facility are available for viewing and copying at the TCEQ Central Office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records), and at the TCEQ Region 11 Office in Austin at 2800 S IH 35, Suite 100. The technically complete application is also available for review and copying at the University Hills Public Library in Austin, at 4721 Loyola Lane.

COMMENTS AND RESPONSES

Copies of comment letters are available for examination in the TCEQ Office of the Chief Clerk. Comments have been grouped under the following topics for response:

Number	Comment Topic
1	Expansion
2	Public Notice, Public Meeting and Public Meeting Date, Hearing Requests and Convenience of Hearing Schedule
3	Compliance with New Chapter 330 Rules (30 TAC Chapter 330 as

Number	Comment Topic
	Effective March 27, 2006)
4	Health & Environmental Risk Assessment
5	Life of the Facility and Term of permit
6	Compliance History, Complaint Response, Enforcement, and Competency
7	Coordination with CAPCOG and Compliance with the Regional Solid Waste Plan
8	Regional Capacity, Size of Facility, Source of Waste Shipments /Facility as a Regional Landfill and Planning for New Location
9	Land Use Compatibility with Surrounding Community, Growth Trends, Economic Impact, Quality of Life and Property Values
10	Aesthetics, Visual Impact, and Landscape Screening:
11	Burden of Proof
12	Buffer Zone, Easements, and Arterial A Road Right-of-Way
13	Evidence of Competency, Equipment, Personnel, and Staffing
14	Facility Design, Construction, and Expansion over Pre-Subtitle D Cells
15	Leachate Management and Contaminated Water Management
16	Slope Stability
17	Drainage, Stormwater runoff, Erosion Controls, and Unauthorized Discharge to Creeks/Lakes
18	Protection of Floodplain and Wetlands
19	Transportation - Truck Traffic, Road Conditions, Safety on Routes to the Site, and Tracking of Mud and Dirt onto Public Roadways
20	Waste Acceptance Rate, Size and Number of Working Face, and Facility Operating Life
21	Geological and Hydrological Site Characterization
22	Groundwater Monitoring and Point of Compliance
23	Landfill Gas Management
24	Air Quality (including smoke and smog) and Emissions
25	Landfill Gas-to-Energy (LFGTE) Plant
26	Buried Waste and the Former Industrial Waste Unit at the Site
27	Wildlife Habitat and Endangered Species Protection
28	Animals, Birds, and Vectors

Number	Comment Topic
29	Odor
30	Dust (including ash)
31	Nuisance: Operating Hours, Noise, Lights, and Vibrations
32	Windblown Trash, Roadside Trash, and Debris
33	Prevention of Unauthorized Waste Disposal, Illegal Dumping, and Management/Disposal of Special Waste
34	Landfill Daily Cover and Working Face
35	Site Operating Procedures
36	Financial Assurance and Corrective Action Cost Estimate
37	Facility Closure, Post-Closure Care, and Use of Land after Closure
38	Fire Protection and Alternative Daily Cover
39	Accuracy of Maps and other information in the Application
40	Testing for pollutants and chemicals of concern
41	Recycling and Waste Minimization

COMMENT 1 Expansion

All of the local elected officials and several concerned citizens explicitly stated opposition to the proposed landfill expansion. A few concerned citizens expressed support for the expansion. Several commentors requested that the TCEQ deny the proposed expansion, as well as future expansions of WM's and the adjacent operating landfill, BFI Sunset Farms Landfill.

RESPONSE 1

The Executive Director acknowledges the commentors' opposition. The TCEQ is responsible for reviewing the application for compliance with state statutes and TCEQ rules. Accordingly, the TCEQ does not have jurisdiction to prohibit owners and operators from seeking an authorization; nor can the TCEQ prohibit owners and operators from receiving authorization if they comply with all statutory and regulatory requirements. The Executive Director has preliminarily determined that the application complies with applicable laws and rules. This preliminary determination can be reexamined and may be modified if new information is received.

The Executive Director will be participating in the evidentiary hearing before the Administrative Law Judge (ALJ) at the State Office of Administrative Hearings. During this process, protestants

will be represented and have the opportunity to put together an administrative case against the application. After the hearing, the ALJ will issue a Proposal for Decision upon which the three Commissioners of the TCEQ will make a final agency decision on the proposed permit.

COMMENT 2 Public Notice, Public Meeting and Public Meeting Date, Hearing Requests and Hearing Schedule

One commentor expressed concern about the adequacy of public notice in the application proceedings to date. The commentor questioned whether there has been reasonable opportunity for the public and affected parties to learn about the application and provide informed views. Several commentors, including elected officials, requested a public meeting and a hearing on the application. Some commentors registered their concern about the timing of the public meeting and the preliminary hearing. Several commentors expressed concern that scheduling the hearing for this application at the same time as the hearing on the application by the adjacent landfill (BFI Sunset Farms Landfill) will put an undue burden on the concerned northeast Austin community. The commentors requested that the hearing for this application be delayed until at least six months after the conclusion of the contested case hearing for BFI Sunset Farms Landfill.

RESPONSE 2

The TCEQ regrets any inconvenience regarding the public meeting and preliminary hearing. WM requested a Direct Referral of the application to the State Office of Administrative Hearings (SOAH). For more detail about the notice and procedural history, please see the above section "Procedural History." Under TCEQ rules, a public meeting is not required in advance of the preliminary hearing when a direct referral has been requested. However, at the request of Senator Kirk Watson of Austin, a public meeting was scheduled in advance of the preliminary hearing. It is common for the public meeting, the close of public comment, and the preliminary hearing to happen at about the same time. In this matter, public comments were collected from 2005 until the evening of April 14, 2008.

The Executive Director has considered all timely received, relevant and material, or significant public comments, including those submitted in writing and those stated orally during the formal comment period at the public meeting held on April 14, 2008. As for the issue of delaying the hearing on the WM application to accommodate the BFI Sunset Farms, the Administrative Law Judge in the WM case did not grant a motion for an abatement. The Administrative Law Judge is currently evaluating procedural schedules proposed by the various parties to the hearing to accommodate for both contested case hearings.

COMMENT 3 Compliance with New Chapter 330 Rules (30 TAC Chapter 330 (effective March 27, 2006))

One commentor requested that the Applicant be held to the new TCEQ Municipal Solid Waste (MSW) rules, located at 30 TAC Chapter 330 (effective March 27, 2006).

RESPONSE 3

The Executive Director originally received WM's application on August 26, 2005 and declared it administratively complete on September 15, 2005. The application was subsequently revised and resubmitted on October 20, 2006 to conform to substantial revisions to 30 TAC Chapter 330 (effective March 27, 2006). Because the Applicant elected to resubmit their application, the application was reviewed under the newly revised 30 TAC Chapter 330 (effective March 27, 2006). All references to 30 TAC Chapter 330 rules are to those rules in effect on March 27, 2006. The Applicant will be held to the standards, specifications, and criteria prescribed in these and any other applicable statute or rule.

COMMENT 4 Health & Environmental Risk Assessment

Many commentors stated that the landfill causes and will continue to cause members of the surrounding community to suffer adverse health effects, some requested that a health impact study be performed before issuance of a permit for the Facility. Some commentors asked that an assessment of the cumulative impact of the two adjacent landfills (Austin Community Recycling and Disposal Facility and BFI Sunset Farms Landfill) on the environmental media (air, groundwater, and soil) in the host community be conducted instead of evaluating each facility separately. Some questioned how incoming waste is monitored, and how WM will ensure prohibited waste is not disposed of in the landfill. Others expressed concern that waste currently acceptable in an MSW landfill is a health risk, and creates liability for Travis County.

RESPONSE 4

The Executive Director has preliminarily determined that the proposed expansion complies with the Texas Solid Waste Disposal Act (TSWDA) and 30 TAC Chapter 330, which were promulgated to protect human health and the environment. Neither the TSWDA nor Chapter 330 require health impact studies to be conducted as a part of the MSW landfill application process. Landfill performance and potential impacts on environmental media are evaluated by monitoring programs put in place to monitor groundwater quality and landfill gas migration at the facility boundary. If the permit amendment is approved, the Applicant will be required to monitor groundwater and landfill gas emissions while the Facility is active and during the post-closure care period (not less than 30 years from closure, unless otherwise specified).

Assessing the cumulative impact of two MSW landfills located adjacent to one another is outside the purview of the normal review of an MSW permit application. Permit applications are site/applicant-specific. The Executive Director evaluates each proposed facility and application on its own merits.

Procedures for monitoring incoming waste and for excluding prohibited waste are described in Sections 4.2, 4.4, and 4.5 of Part IV, SOP, of the application. The process includes reviewing waste streams prior to acceptance, inspecting incoming waste loads by site personnel, monitoring waste arriving at the gate, observing the waste being disposed of at the working face by equipment operators, controlling access, and preventing improper waste unloading in unauthorized areas. The Executive Director has preliminarily determined that the referenced provisions comply with the requirements of 30 TAC § 330.127(5), § 330.131, and § 330.133. If the landfill operates as represented in the application and pursuant to applicable TCEQ rules and Texas statutes, the facility should not be a risk to human health and the environment.

COMMENT 5 Life of the Facility and Term of the Permit

Several commentors, including public officials, questioned how long the Facility should be authorized to operate, and/or stated their wish that the landfill be closed at the end of the existing permit time frame, or by 2015. Some commentors would like the term of the permit to be limited, and/or have the Facility moved to a more suitable greenfield site.

RESPONSE 5

The Executive Director thoroughly reviewed the permit amendment application according to the TCEQ's MSW rules. According to 30 TAC § 330.71(b), a permit is usually issued for the life of the site. A permit may be issued for a specific period when deemed appropriate by the Executive Director, but may be revoked, amended, or modified at any time if operating conditions do not meet the minimum standards set forth in this chapter or for any other good cause. The Executive Director has preliminarily determined that the application meets the statutes, rules and policies of the TCEQ and that a term limit is not necessary for this application. However, the Commissioners, at their agenda session after the contested case hearing process has concluded, will make the final determination on whether this permit will be approved, approved with different terms, or denied.

Concerning relocation of the site, TCEQ does not have the authority to mandate a different location for a facility or for an applicant. TCEQ evaluates applications for municipal solid waste landfills based on the information provided in the application.

COMMENT 6 Compliance History, Complaint Response, Enforcement, and Competency

Many commentors stated that the Facility has a poor compliance history, with ongoing problems including odors, uncontrolled storm water runoff, sediment, and windblown trash. These commentors have urged the TCEQ to deny the instant permit amendment, which they believe would worsen existing problems. Several commentors stated that they have contacted the landfill operator when problems occur, but in their opinion the operator is not responsive or does not correct the problem. Commentors also stated that they have contacted the TCEQ and gotten no formal response on complaints, or by the time an investigator from the TCEQ is able to respond, the problem the complainant experienced (such as odor) has gone, and/or that the TCEQ fails to identify a violation or take enforcement action; thus, appearing more interested in permitting than addressing complaints and protecting citizens from bad practices. One commentor expressed concern that the TCEQ does not have enough staff to pursue enforcement.

RESPONSE 6

State law requires that an applicant's compliance history be taken into consideration before issuing a permit amendment. As part of the technical review of the permit application, the TCEQ examines the compliance history of the company and the site pursuant to the criteria in 30 TAC Chapter 60. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance. More details on compliance history can be found on the TCEQ website at <http://www.tceq.state.tx.us/compliance/enforcement/history/about.html>.

The WM Landfill permit amendment application was received on or about August 5, 2005, and both the company and site are rated and classified pursuant to 30 TAC Chapter 60. This site has a rating of 38.14 and a classification of Average. The company rating and classification for Waste Management of Texas, Inc. (the average of the ratings for all sites the company owns), is 3.74 and Average.

TCEQ inspectors have been actively involved responding to complaints and taking appropriate actions regarding the Facility. The site has been inspected approximately 61 times in the last five years.

If you would like to file a complaint about an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action.

COMMENT 7 **Coordination with CAPCOG and Compliance with the Regional Solid Waste Management Plan**

The Capital Area Council of Governments (CAPCOG) stated that the proposed permit amendment application does not comply with the applicable Regional Solid Waste Management Plan (RSWMP) based on concerns relating to the Facility's compliance history, siting, management, and method of operation, as well as compatibility with surrounding land use and significant local concerns about the site. Several other commentors, including elected officials, reiterated the CAPCOG's position.

RESPONSE 7

The Executive Director does not make a preliminary determination as to whether a solid waste management permit complies with an adopted RSWMP. Pursuant to 30 TAC § 330.61(p), the Executive Director requires an applicant to provide documentation showing: 1.) that Parts I and II of the application were submitted for review to the applicable council of government for compliance with the RSWMP, and 2.) that a review letter was requested from any local governments as appropriate for compliance with local solid waste plans. The Applicant has provided the Executive Director with the required documentation.

The Commissioners will decide whether an application for a solid waste management permit is in compliance with an adopted RSWMP. Tex. Health & Safety Code (THSC) §§ 361.011, 361.066, and 361.089. The Commission, meaning the agency composed of both an Executive Director and three Commissioners, is responsible for, and controls all aspects of, the management of municipal solid waste. THSC § 361.011. The role of council of governments (COGs) in determining whether permit applications comply with a RSWMP is to make the initial determination of compliance and conformity with their RSWMP. The Commission has not delegated its authority to CAPCOG to make a final decision regarding whether permit applications comply with the adopted RSWMP. CAPCOG's findings are advisory in nature, and not binding on the Commission. The Commission may amend CAPCOG's findings in light of its authority under THSC §§ 361.011, 361.066, and 361.089, and make a final determination regarding the application's compliance with the RSWMP.

COMMENT 8 **Regional Landfill Capacity, Size of Facility, Source of Waste Shipments/Facility as a Regional Landfill and Planning for a New Location**

Several commentors stated that Travis County has sufficient landfill capacity and that expansion of the WM Landfill is not necessary. Other commentors recommended that WM not operate the Facility as a regional landfill and not accept waste from communities that do not have recycling programs. One commentor asserted that the current landfill has sufficient capacity to operate and that there is no need for expansion. Several commentors asked why the Applicant, anticipating need for more capacity, has not found a new location to operate a new facility. Several commentors expressed their opposition to regional landfills being located in Travis County, to new landfills being located in Travis County in general, and new landfills in particular places in Travis County.

RESPONSE 8

The TCEQ does not have authority to consider the need for regional landfill capacity in deciding whether to issue an MSW landfill permit. The TCEQ does not have authority to restrict the area

a landfill serves and does not have authority to consider the service area in deciding whether to issue a permit. The Executive Director considers the application filed and does not have authority to require an applicant to apply to locate a landfill in a different location. According to the Texas Health & Safety Code (THSC), local and regional solid waste planning (including capacity planning and interregional waste transfer) is a responsibility of local governments. THSC § 363.0615. CAPCOG, which has jurisdiction over regional solid waste planning in this area, has conditionally determined that WM's application to expand does not conform with the regional solid waste management plan for Travis County and surrounding areas. This issue will be addressed as part of the contested case hearing process and will be decided by the Commissioners at their agenda session.

COMMENT 9 Land Use Compatibility, Growth Trends, Economic Impact, Quality of Life, and Property Values

Most commentors expressed the opinion that the landfill is incompatible with the surrounding community and growth trends, and that the landfill does and would continue to impact the quality of the environment and quality of life in the surrounding area. Commentors noted that the area is in the desired development zone for the Austin area. They expressed concern that the presence of the WM landfill and other landfills harms property values, hampers the ability of the area to grow and prosper, and ultimately will undermine the tax base for the area. Several commentors stated that the application did not provide sufficient or complete information regarding land use compatibility, and one commentor stated that the maps in the application are old and do not reflect present land use or ownership. One commentor asked why more building permits are issued for areas close to the landfill.

RESPONSE 9

The TCEQ's jurisdiction is established by the Legislature, and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ does not have jurisdiction to consider effects on property values when determining whether to approve or deny a permit application. The Executive Director has preliminarily determined that the required information concerning land use was submitted in the application, and that it was current at the time the application was declared technically complete.

Subsection 330.61(h), 30 TAC states that the primary concern is that the use of any land for a MSW facility not adversely impact human health and the environment. Subsection 330.61(h), 30 TAC also requires that the owner or operator provide information regarding the likely impacts of the facility on cities, communities, groups of property owners, or individuals by analyzing the compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest. To assist the Executive Director in considering the impact of the site on the surrounding area, the applicant is required to provide an available public zoning

map for the facility within two miles of the facility for the county or counties in which the facility is or will be located and approval of any nonconforming use if applicable; provide information about the character of the surrounding land uses within one mile of the proposed facility; provide information about growth trends within five miles of the facility with directions of major development; provide proximity to residences, business establishments, and other uses within one mile, such as schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality; provide information regarding all known wells within 500 feet of the site; and provide any other information requested by the Executive Director. The Executive Director has preliminarily determined that the required information concerning land use was submitted in the application and that it was current at the time the application was declared technically complete.

COMMENT 10 Facility Size, Aesthetics, Visual Impact, and Landscape Screening

Many commentors expressed concern about the height and size of the landfill after the proposed expansion, its appearance, visual impact on the surrounding area, and the negative impression on new visitors to the area. Several commentors expressed concern that the visual impact of the expansion will deter visitors from their business and historical sites. One commentor was of the opinion that the application fails to specifically and properly address aesthetics and does not provide substantial landscape to screen the landfill operations from the major highways, secondary roads, and homes within at least five miles of the area and that the operations are too high and the vegetation proposed too low to provide adequate screening of the landfill. Several commentors expressed their wish that the sides of the landfill facing the public roadway be landscaped and that the waste disposal operation be screened from view.

RESPONSE 10

The TCEQ's rules include design requirements that apply to all sizes of landfills, but the rules do not set a maximum size limit for landfills. Rules that relate to the screening of solid waste disposal include: 1.) 30 TAC § 330.23(a), which requires the Executive Director to coordinate with the Texas Department of Transportation (TXDOT) for existing or proposed facilities within 1000 feet of an interstate or primary highway to determine the need for screening or special operating requirements; 2.) 30 TAC § 330.61(d)(7), which requires an applicant to identify, as part of the facility layout maps, provisions for the maintenance of natural windbreaks, such as greenbelts, where they will improve the appearance and operation of the facility and, where appropriate, plans for screening the facility from public view; 3.) 30 TAC § 330.175, which requires that an applicant provide visual screening of deposited waste materials where the Executive Director determines that screening is necessary or as required by the permit; and 4.) 30 TAC § 330.543(b)(3), which provides for visual screening of solid waste processing and disposal activities as part of a specific engineered design alternative to meet specific requirements for

buffer zone requirements.

The Executive Director has not determined that any additional screening should be required under the above-cited rules. The Facility is located within 1000 feet of US Highway 290. The Executive Director coordinated with TXDOT concerning this permit amendment application through a letter dated April 18, 2006. TXDOT has expressed in a letter dated October 7, 2005, that it will work cooperatively with the landfill owner to understand the proposed expansion of the landfill and proposed changes to the gas management plan, and how they may affect transportation planning. The Applicant stated in Section 2.5 of Attachment 7 and in Section 4.25 of Part IV, SOP, of the application that the east and south slopes of the East Hill at the landfill have been landscaped and continue to be vegetated and that existing vegetation in the buffer zone will be maintained as needed to provide visual screening of disposal operations from public view. Details of the approved landscaping plan are included in Attachment 7, Appendix B. Finally, waste deposited on elevated portions of the landfill will be screened by daily, intermediate, and final covers, described in the SOP and in the Final Closure Plan.

COMMENT 11 Burden of Proof

One commentator asked why the community bears the burden to show TCEQ why the permit should not be granted instead of the other way around. The commentator stated that the Applicant should have to show why the permit should be granted.

RESPONSE 11

The applicant bears the burden of proof to show that the application complies with the statutes, rules, and policies of the TCEQ during the application review process and throughout the contested case hearing process. This is a direct referral matter, which means the issues are limited only by evidentiary relevancy. Pursuant to House Bill 801 amendments to the Texas Water Code at § 5.557(a), codified at 30 TAC § 55.210, the central issue to be decided is whether the application complies with all applicable statutory and regulatory requirements. Issues presented in this RTC must be admitted pursuant to 30 TAC § 80.126. The evidentiary standard is material, relevant and not unduly repetitious pursuant to § 80.127. The role of the Executive Director in a contested case hearing is to complete the administrative record pursuant to § 80.108(d) and § 80.11. These rules and statutes mean the applicant bears the burden of proof to show why TCEQ should approve the permit.

COMMENT 12 Buffer Zone, Easements, and Arterial A Road Right-of-Way

Several commentators expressed concern that the buffer zone and other safeguards around the landfill are not adequate. The Travis County Commissioners Court expressed concern that the

open space and agricultural lands that once buffered the landfill has been lost due to growth in the area. They would like to see buffers around the landfill that help protect citizens from nuisances such as blowing trash, noise and light from round-the-clock operations, noxious odors, and unscreened views of landfill operation. Some commentors expressed concern that the proposed expansion may interfere with the construction of Arterial A Road. State Senator Kirk Watson indicated that WM has expressed willingness to set aside a right-of-way for the future construction of Arterial A Road, and requested that the set aside be incorporated as a permit condition.

RESPONSE 12

For any vertical or lateral expansion of an existing landfill, 30 TAC § 330.543(b)(2) requires that the owner or operator establish and maintain a minimum of 125-foot buffer zone. Parts I/II, Appendix B as well as Part IV, Section 4.9 of the application address the requirements of 30 TAC § 543(b)(2). All buffer zones or portions thereof are located within the Facility boundary or on property adjacent to the Facility boundary that is owned or controlled by WM. The Executive Director has requested further information and documentation from the Applicant before determining whether the buffer zone provision in the application complies with the new rules. As for the future construction of Arterial A Road, the TCEQ does not have jurisdiction to consider future local transportation and traffic plans.

COMMENT 13 Evidence of Competency, Equipment, Personnel, and Staffing

One commentor wondered why WM, which owns 50 facilities in Texas and headquartered in Houston, is a Delaware Corporation. The commentor expressed concern that the Facility does not have enough personnel and/or equipment to handle the proposed waste acceptance rate and conduct the proposed (7 days a week, 24 hours a day) continuous operation. The commentor also expressed concern that the landfill manager is not solely dedicated to this Facility; the landfill manager designated for Austin Community Recycling and Disposal Facility is also responsible for the daily operation of several other Waste Management sites.

RESPONSE 13

Subsection 330.59(f), 30 TAC requires the applicant to demonstrate evidence of competency to operate a facility. The applicant must list all Texas solid waste sites that the owner or operator has owned or operated within the last ten years; list all solid waste sites in all states, territories, or countries in which the owner or operator has a direct financial interest; state that a licensed solid waste facility supervisor shall be employed before commencing facility operation; list the names of the principals and supervisors of the owner's or operator's organizations together with

previous affiliations with other organizations engaged in solid waste activities; show landfilling and earthmoving experience, and other pertinent experience or licenses possessed by key personnel as well as list the number and size of each type of equipment to be dedicated to facility operation. Section 1.6 of Parts I/II of the application provides discussions on the evidence of competency, while the required submittals are provided under Documentation in Parts I/II of the application. The Executive Director has preliminarily determined that the evidence of competency discussions and submittals provided in the application meet the requirements of the rule cited above.

In response to the comment about the adequacy of the number of personnel and/or equipment to handle the proposed waste acceptance rate and for the proposed 7 days a week, 24 hours a day continuous operation, 30 TAC § 330.127(1) requires that the facility's SOP plan include a description of the function and minimum qualifications for each category of key personnel to be employed at the facility and for the supervisory personnel in the chain of command. The TCEQ rule at 30 TAC § 330.127(2) requires that the SOP include both the minimum number, size, type, and function, of the equipment to be utilized at the facility based on the estimated waste acceptance rate and other operational requirements, and a description of the provisions for back-up equipment during periods of break down or maintenance of this listed equipment. The required personnel and equipment information are provided in Sections 2.0 and 3.0 of Part IV, SOP, of the application. The applicant has a continuing obligation to employ personnel and equipment in such types and numbers to ensure proper management and operation of the facility to meet all applicable regulatory requirements.

Regarding the comment on the day-to-day management of the Facility, the Applicant has stated in Section 1.6 of Parts I/II of the application that at least one individual, licensed as a solid waste facility supervisor (not the same as the landfill manager described in the application) pursuant to 30 TAC Chapter 30, Subchapter F (relating to Evidence of Competency), shall be employed to supervise the operations of the Facility. This is consistent with the requirement in 30 TAC § 330.59(f)(3). While the landfill *manager* as described in the application may not be dedicated solely to this particular facility, the licensed site *supervisor* will be dedicated solely to the Facility.

COMMENT 14 Facility Design, Construction, and Expansion Over Pre-Subtitle D Cells

Some commentors expressed concern that the application does not include adequate provisions for the construction of liners. One commentor expressed concern that the Facility design, construction, and operation as proposed within the application is deficient. One commentor expressed concern that the proposed expansion may be above unlined cells.

RESPONSE 14

Commentors had a general concern about the construction of liners, but did not describe any particular deficiencies in the provisions for liner design and construction provided in the application. Section 5 of Attachment 3 in Part III of the application provides liner design and construction details. A Liner Quality Control Plan which details liner construction quality assurance and quality control processes is provided in Appendix E of Attachment 3. The Executive Director has preliminarily determined that the application complies with the requirements of the liner system and operation in the rules at 30 TAC § 330.331, § 330.337, § 330.339 and § 330.341.

To address the comment that the expansion may be over unlined cells, the Executive Director emphasizes that this application is not for a vertical expansion. The proposed lateral expansion area will be constructed from a composite liner and leachate collection system in accordance with 30 TAC § 330.331. A "piggyback" composite liner and a leachate collection system, in compliance with 30 TAC § 330.331(a), will be installed over the existing waste in the area where the proposed expansion adjoins the Pre-Subtitle D area at the Facility's West Hill. The piggyback composite liner will be comprised of, from top to bottom, 2-foot thick protective cover soil, double-sided geocomposite drainage layer, 60-mil linear low-density polyethylene (LLDPE) geomembrane liner textured on both sides, and a 2-foot compacted clay liner.

COMMENT 15 Leachate Management and Contaminated Water Management

Some commentors expressed concern that the leachate collection system in the application is inadequate. One commentor asked whether the Facility operates with no more than 12 inches of leachate on the lined portions of the landfill, whether the Applicant is currently recirculating leachate at the Facility, and whether the Applicant proposes to continue leachate recirculation under the proposed expansion permit. One commentor expressed concern that the Applicant has in the past failed to properly handle and dispose of leachate, and has also failed to properly operate leachate extraction pumps. One commentor asked what was being done to improve old leachate practices. Some commentors expressed concern that the application does not adequately address management and control of contaminated water from the site.

Several commentors stated that the Applicant has had difficulty preventing contaminated surface water from running off the site, and expressed concern that the problem will worsen if the landfill expands. Commentors expressed concern about management of stormwater that comes in contact with waste and with daily cover, and stated that the application does not adequately demonstrate that the Facility meets the criteria to ensure runoff from daily cover is not contaminated

RESPONSE 15

Section 6 of Attachment 3 in Part III of the application details the design and operating procedures for the leachate collection system (LCS) as well as the management and control of contaminated water. The LCS will comprise of granular and/or geosynthetic drainage layers, a system of perforated collection pipes encased in gravel for collection and removal of the leachate. The leachate will discharge into collection sumps and removed from there by pumps to a leachate evaporation pond. The design shows that leachate head over the liner will be less than 12 inches as required. Leachate will be recirculated as provided under Sections 4.26 of the SOP. The Executive Director has preliminarily determined that the design and plan meets the requirements of 30 TAC § 330.331, § 330.333, and § 330.177. For a discussion of the impact of past violations and enforcement actions, please see the comment response relating to compliance history.

Attachment 3, Section 6.1 of the application contains management measures and practices to minimize the generation of and control of generated contaminated water at the Facility. These include use of structural controls and cover practices to prevent surface water from contacting waste at the Facility, isolation of waters that have come into contact with waste, and management of these contaminated waters separate from uncontaminated water. The application indicates that contaminated water is managed separately from leachate by using portable tanks, direct loading into tanker trucks for off-site disposal, or direct discharge to a local publicly owned treatment works (POTW). The Executive Director has preliminarily determined that the contaminated water management plan meets the requirements of 30 TAC § 330.305(g). Section 4.21 of the SOP describes how daily cover will be applied and maintained. Surface water quality testing requirements and discharge limits are established by a separate storm water permit issued in accordance with the Texas Pollutant Discharge Elimination System (TPDES), and an associated Storm Water Pollution Prevention Plan. All discharges of storm water must be in accordance with TPDES requirements; if unauthorized discharges from the landfill occur, the permittee will be subject to enforcement.

COMMENT 16 **Landfill Slope Stability**

Some commentors expressed concern that the application does not include adequate provisions for slope stability.

RESPONSE 16

TCEQ rules do not explicitly include a slope stability requirement. The concept could be reasonably related to the foundation evaluation which considers stability among other factors in 30 TAC § 330.337(e). The Applicant has prepared a slope stability analysis in Section 4.3.2 and

detailed in Appendix C of Attachment 3 in Part III of the application. The Executive Director has preliminarily determined that the application complies with the requirements of 30 TAC § 330.337(e).

COMMENT 17 Drainage, Stormwater Runoff, Erosion Controls, and Unauthorized Discharge to Creeks/Lakes

One commentor expressed concern that the application fails to demonstrate that natural drainage patterns will not be significantly altered, that the application does not propose adequate protection of groundwater and surface water, and that the application does not propose adequate provisions for erosion and contaminated water control. Some commentors expressed concern that the many existing receptors in the area will be exposed to polluted storm water runoff, that creeks and drainage ways in the area will be impacted by the proposed expansion, that runoff from the landfill is dangerous, and that the landfill cannot contain runoff after heavy rains. Some commentors expressed concern on the impact on surrounding properties of surface water drainage and contaminated storm water. One commentor expressed concern that the landfill has in the past been found to have failed to maintain drainage ditches and sedimentation structures to control erosion of slopes, and was a source of pollution to the Walnut Creek. One commentor was in support of the expansion only if it will facilitate the construction of Arterial A Road, which she said will provide better erosion and flooding control.

RESPONSE 17

TCEQ rules at 30 TAC § 330.63(c) and § 330.303, § 330.305, and § 330.307 require the applicant to provide a surface water drainage report that demonstrates that the owner or operator will design, construct, maintain and operate the Facility to manage run-on and runoff during the peak discharge from at least a 25-year storm, ensure erosional stability of the landfill during all phases of landfill operation, closure, and post-closure care, provide structures to collect and control at least the water volume resulting from a 24-hour, 25-year storm, protect the Facility from washouts, and ensure that existing and permitted drainage patterns are not adversely altered.

Attachment 2 (Facility Surface Water Drainage Report) of Part III of the application provides discussions and detailed designs, calculations, and operational considerations for the collection, control, and discharge of storm water from the Facility as required by the above-referenced rules. The surface water management plan described in the application consists of interceptor berms on the cover of the landfill, routing storm water into down-slope channels which feed into perimeter channels located at the base of the landfill. These perimeter channels route the storm water into a central natural drainage way which includes two sedimentation ponds and/or into a detention/sedimentation pond to be located along the west-central portion of the Facility

boundary which discharges into the tributary of Walnut Creek which parallels the northwestern boundary of the Facility. A small area on the eastern portion of the Facility boundary drains through drainage features along Giles Road. Run-on from offsite areas to the north, west and south of the Facility are captured and routed through diversion channels, drainage ways, and/or the sedimentation ponds to the boundary discharge points. In addition, best management practices are described and analyzed to show that low non-erodible flow velocities will be maintained and to ensure that soil loss is within permissible limits.

The application contains a certification statement indicating that the Applicant will obtain the appropriate Texas Pollutant Discharge Elimination System (TPDES) coverage, as required by § 402 of the Federal Clean Water Act, for the proposed facility expansion to assure that storm water discharges are in accordance with applicable regulations.

According to Section 6.1 of Attachment 3 of Part III of the application, Contaminated storm water at the working face will be contained by use of constructed storm water berms down slope of the working face and removed via portable pumps, hoses, and pipes and discharged into portable tanks or onto tanker trucks for off-site disposal at an approved disposal facility, or direct discharge under permit to a local public-owned treatment works (POTW).

The Executive Director has preliminarily determined that the application complies with all applicable requirements regarding drainage and erosion controls.

A demonstration that existing permitted drainage patterns will not be adversely altered is provided under Sections 1.0 and 3.1 of Attachment 2 in Part III of the application as required. Concerning the comments that the application does not include provisions that adequately protect groundwater, surface water, erosion, and contaminated water control, the commentor did not specify which aspects of the application are lacking or deficient. Concerning the comment that many existing receptors in the area will be exposed to polluted storm water runoff, that creeks and drainage ways in the area will be impacted by the proposed expansion, and that runoff from the landfill is dangerous, only uncontaminated storm water will be discharged at the various discharge points at the Facility boundary. The application indicates that the Facility will handle contaminated water as described above. No adverse impact on the existing receptors is expected, since contaminated water will be handled separately from uncontaminated storm water, and the existing permitted drainage pattern will not be adversely altered.

Concerning the comment that the landfill cannot contain runoff after a heavy rainfall, the drainage structures have been designed to collect, convey, and discharge the water volume from a 24-hr, 25-year rainfall event as required by rule.

Concerning the comment on past violations, these are dealt with using a separate compliance and

enforcement mechanism. Past citations and/or violations have been resolved in accordance with applicable rules and form part of the compliance history rating for the site and the Applicant's company as a whole. For further discussion, please refer to the response to comment regarding compliance history. The application will be allowed to discharge only uncontaminated storm water into creeks or other surface water bodies in accordance with existing discharge patterns.

The comment relating to facilitation of construction of Arterial A Road is noted. However, the TCEQ has no authority to make the construction of Arterial A Road a condition for approving or denying this application.

COMMENT 18 Protection of Floodplains and Wetlands

Two commentors expressed concern that the application does not include adequate provisions for the protection of wetlands and floodplains. Commentors expressed concern that the Facility may be discharging into creeks and recreational lakes without authorization.

RESPONSE 18

Floodplain and wetlands within and adjacent to the site are discussed in Section 3.6 and Appendixes B-5 and B-6 of Parts I/II of the application. Sections 5.0 of Attachment 2 in Part III of the application also discusses floodplains within the site.

The Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) provided in the application shows a 100-year floodplain associated with a tributary of Walnut Creek which crosses the site along the northwestern boundary of the existing permitted area. The FIRM shows that a small portion of the site is included in the limits of the 100-year floodplain. The rest of the site, including the limits of waste disposal, is outside the 100-year floodplain. Waste disposal operations will not occur within the 100-year floodplain area. Maps and drawings provided in Appendix B-5 of Parts I/II of the application show that the at least 3 feet of freeboard is available between the elevations of the 100-year flood event water surface and the toe of the landfill. The Facility obtained a flood hazard development permit from Travis County as required.

Concerning wetlands, the application indicates that Horizon Environmental Services, Inc. performed a wetland determination which included the entire proposed expansion area and the undeveloped portions of the existing facility. The assessment evaluated the Facility for applicable federal, state, and local laws, regulations, and rules regarding wetlands. The assessment results identified three features, a tributary along the western boundary of the expansion area and two small drainages that extend onto the site a short distance, all associated with the Walnut Creek tributary that crosses the site along the northwest boundary of the existing

permitted area, as being jurisdictional waters of the United States. The lowermost reach of the main Walnut Creek tributary in the southwestern corner of the expansion area meets the wetlands criteria for the TCEQ and for the City of Austin. Also, one pond in the north central portion of the expansion area meets the criteria for wetlands as established by the City of Austin.

The two small drainages referenced above are considered hydrologically ephemeral. The proposed expansion will impact the northernmost drainage, but the impact will be less than 1/10th of an acre; therefore, the project will be covered under the Nationwide Permit (NWP) #39 and/or #43 without notifying the US Army Corps of Engineers. Compliance with the General Conditions of the NWP is required during construction at the site. The pond in the north central portion of the expansion area will be impacted by the proposed development. This impact will be mitigated in accordance with the City of Austin Site Development Permit by developing a 10.38 acre area that includes the proposed sedimentation/detention pond west of the expansion area to meet the provisions in the City of Austin approved Restoration and Wetlands Mitigation Plan. The Executive Director has preliminarily determined that the wetland areas in the southwestern corner of the expansion area will not be impacted by the Facility development. The Applicant obtained the City of Austin Site Plan Development Permit and the Travis County Flood Hazard Area Development Permit as required.

The Executive Director has preliminarily determined that the provisions for floodplain and wetland protection meet the requirements of 30 TAC § 330.61(m), § 330.63(c), § 330.547, and § 330.553 as well as conforming to the general prohibitions against discharge at 30 TAC § 330.15(h).

COMMENT 19 Transportation - Truck Traffic, Road Conditions, Safety on Routes to the Site, and Tracking of Mud and Dirt onto Public Roadways

Many commentors expressed concern regarding traffic safety to and from the Facility, including truck traffic on very narrow back/neighborhood roads, trucks exceeding the speed limit and/or driving unsafely, deterioration of roads, and mud from trucks exiting the Facility on the road.

Some commentors expressed concern that waste trucks are not properly covered. Some commentors expressed concern that the increased truck traffic after the Facility expansion will put more pressure on the roads within the area which are currently in various states of disrepair. One commentor expressed concern that roads within one mile of the site have not been fully identified by the Applicant, hence the adequacy of the access roads, availability of roads, or volume of traffic cannot be determined by a reviewer, and that the number of trucks using the roads to and from the landfill is incompatible with the surrounding neighborhoods.

Several commentors reported that the tracking of mud and dirt from the landfill onto public

roadways has been a problem at the site, creating a driving hazard. One commentor suggested that the cause is that drivers of trash trucks are unwilling to take the time to wash their wheels. Some commentors noted that street sweepers clean the road in front of the Facility, but that the sweeping does not remove all the dirt and is insufficient. One commentor indicated that mud is also tracked onto U.S. Highway 290 and is not swept. One commentor expressed concern about transport of contaminants by vehicles.

RESPONSE 19

The application includes information related to adequacy of access roads, a traffic study, and coordination with the Texas Department of Transportation (TXDOT) in Section 3.2 and in Appendix A-4 of Parts I/II of the application. Rule 30 TAC § 330.61(i) requires an owner or operator applying for a new permit or permit amendment to provide data, including availability and adequacy of roads that the owner or operator will use to access the site, volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the facility, and project the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility. The information is provided in Section 3.2 and Appendix A-4 of Parts I/II of the application. Information provided in the referenced section indicates an existing and future daily traffic of 390 and 667 vehicles per day respectively. The application indicates that public access to the Facility is and will continue to be via the existing driveway on Giles Road. The primary access routes to the landfill are given as Giles Road, Johnny Morris Road, and US 290. The Applicant advised the Executive Director verbally that it restricts trucks operated by WM to this route, but is not able to restrict the routes taken by other customers. The application includes information required by § 330.61(i)(4) that documents coordination with TXDOT for traffic and location restrictions, such as turning lanes or storage lanes among others. Appendix A-4 of Parts I/II of the application include a letter dated January 13, 2005 from the TXDOT Austin District indicating no objections to the traffic study provided by the Applicant. The Executive Director has preliminarily determined that the application includes an adequate demonstration addressing transportation issues.

The Applicant must also comply with any local city or county regulations or ordinances that are related to transportation. If garbage trucks or other vehicles are observed operating in an unsafe manner, or if trucks are traveling on roads in violation of restrictions, this information may be reported to local law enforcement agencies (police or sheriff). The TCEQ does not have jurisdiction to limit routes taken by garbage trucks. If roads need repair, this information should be reported to the city, county, or state road maintenance department.

Sections 4.11 and 4.15 of Part IV, SOP, of the application identifies specific features and procedures proposed to encourage covering of waste trucks, maintain clean primary access

routes to the site, and control tracking of mud and dirt onto public roadways, including all-weather access roads (paved main access road and unpaved interior roads that use gravel or ground woody material). Truck traffic leaving the site will exit via a 3,265 foot long paved road, which will help clean off excess mud before reaching the public roadway. In addition, the SOP requires exiting vehicles to use a truck wheel wash facility near the entrance on days when conditions require this. The procedures also state that washing and/or sweeping will be used to remove mud deposited from trucks leaving the site. The Applicant is responsible for cleaning up waste materials spilled or deposited along Giles Road, Highway 290, Blue Goose Road, and Johnny Morris Road for a distance of two miles in either direction from the Facility entrance. The Executive Director has preliminarily determined that the application includes adequate provisions to control tracking of mud and dirt onto public roadways.

COMMENT 20 Waste Acceptance Rate, Size and Number of Working Face, and Facility Operating Life

One commentator noted that the waste acceptance rate requested in the modification of the Facility's SOP is almost double the present rate of waste acceptance of 500,000 tons per year at the Facility. Other commentators expressed concern that the application does not include adequate provisions for calculating the estimated rate of solid waste deposition and Facility operating life. Some commentators requested that the Facility cease operation by November 2015; other commentators said that it is time for the landfill to close. Some commentators expressed concern about the number and size of the working face proposed in the application. One commentator requested clarification on what is meant "practical" in the text "the unloading of waste must be confined to as small an area as practical." Some commentators asked that the draft permit place mandatory limits on the extent of the working face.

RESPONSE 20

According to Section 2.2.2 of Parts I/II of the application, based on 2005 annual waste receipts, the Facility receives approximately 447,658 tons of waste per year. The Applicant proposes to ultimately accept 673,183 tons-per-year of authorized waste by the final full year of site operations. The range of waste acceptance rates listed in Part IV, SOP, of the application, reflect the capacity of available elements of site operation related to waste acceptance (mostly equipment and personnel) at the site and is consistent with the TCEQ Guidance Document (April 2005) "RG-420, Guide for Preparing Site Operating Plans for Municipal Solid Waste Facilities." Detailed air space volume and site life calculations are provided in Part III, Attachment 3, Appendix A of the application. Should the permit amendment be granted, based on an average waste disposal rate of 565,994 tons-per-year over the life of the site, the estimated site life (from February 2006) is 19.4 years. Pursuant to 30 TAC § 330.125(h), the listed waste acceptance rate is not a limiting parameter of the landfill permit.

Concerning comments pertaining to the date of cessation of operation at the landfill, the TCEQ Rule 30 TAC § 330.63(d)(4)(D) requires a calculation of the estimated rate of solid waste deposition and operating life of the landfill unit, however, the rate of solid waste deposition varies over the life of the Facility and pursuant to 30 TAC § 330.125(h), is not a limiting parameter of the landfill permit; hence, there is no regulatory requirement for the exact date of cessation of operation to be specified in the application. Although 30 TAC § 330.71(c) allows for a permit to be issued for a specific period of time when deemed appropriate, pursuant to 30 TAC § 330.71(b), a permit is normally issued for the life of the facility, but may be revoked, amended, or modified at any time if the operating conditions do not meet the minimum standards or for any other good cause.

Concerning the comments pertaining to the number and size of the working face proposed in the application, Section 4.5 of Part IV, SOP, of the application states that the maximum number of working faces that may be open at any given time is five, that generally there will typically be one open working face, and that regardless of the number of working faces that are open at any time, the maximum size of the total working face area will not exceed 60,000 square feet. Section 330.133(a), 30 TAC, specifies that the unloading of waste will be confined to as small an area as practical, and that the number and types of unloading areas be identified. The purpose of maintaining as small an area of working face as practical is to be able to control odors, windblown waste, working face fires, and to ensure adequate waste compaction, proper inspection and screening of the waste, and to ensure that sufficient daily cover material is available to cover the waste each day. Therefore, the phrase "as small an area as practical" relates to the ability of the applicant to provide the personnel, equipment, and capacity to achieve the objectives of controlling odors, windblown waste, working face fires, and to ensure adequate compaction, proper inspection and screening of the waste, and to ensure that sufficient cover materials are available for the working face size proposed. The same applies to the number of working faces proposed. There is no other regulatory requirement limiting the number of working faces. The Executive Director has preliminarily determined that the application complies with the rule provisions relating to the size and number of unloading areas.

COMMENT 21 Geological and Hydrogeological Site Characterization

Several commentors questioned whether the geology and hydrogeology of the site had been properly characterized. Several commentors also questioned what effects the proximity of the Facility to the BFI Sunset Farms Landfill to the north and the closed Travis County Landfill to the south have on the hydrogeology of the site.

RESPONSE 21

The Applicant conducted a subsurface investigation following a soil boring plan that met the requirements of 30 TAC § 330.63(e)(4) regarding number and depth of borings. The soil boring

plan was approved by the TCEQ in a letter dated December 7, 2004, and consisted of 27 borings in a total project area of approximately 147 acres. Fourteen of the borings were in the approximately 70-acre expansion area proposed to be added to the permit, and 13 borings were in the old "expansion area" (approximately 70 acres) that was permitted as part of the current MSW Permit No. 249C for the site. The methods and results of the investigation are documented in Section 5 of the Geology Report (Attachment 4 to Part III of the application). The Geology Report also documents prior subsurface investigations at the site. The geological characterization of the surrounding area, including faults, is documented in Sections 2, 3, and 4 of the Geology Report. The hydrogeological characterization of the site is documented in Section 3 of Groundwater Characterization and Monitoring Report (Attachment 5 to Part III of the application). The proximity of the Facility to adjacent landfills did not affect the ability of the Applicant to conduct a satisfactory groundwater characterization, or to design an adequate groundwater monitoring system. The Executive Director has preliminarily determined that the geological and hydrogeological investigations, documented in the Geology Report and in the Groundwater Sampling and Analysis plan which includes a Characterization and Monitoring Report, meet the requirements of 30 TAC § 330.63(e) and (f).

COMMENT 22 Groundwater Monitoring and Point of Compliance

Several commentors stated that the application does not include adequate provisions for groundwater monitoring, or were concerned that the Facility may cause contamination of groundwater, and asked what will be done to monitor potential groundwater contamination and migration. Several commentors asked what role the TCEQ had in reviewing the monitoring program for the industrial waste unit, and/or expressed concern that the proposed point of compliance (POC) in the south-central portion of the site does not include the industrial waste unit (IWU) or the old Phase I Area that adjoins the closed Travis County Landfill to the south. One commentor stated that a study commissioned by the City of Austin (*Private Landfill Assessment*, by Carter-Burgess, dated February 1999) concluded that the monitoring of the IWU at the site is not adequate, and another stated that in the late 1990s toxic chemicals were seeping from the site at the surface.

RESPONSE 22

The Executive Director has preliminarily determined that the proposed point of compliance (POC) and groundwater monitoring system design meet the requirements of 30 TAC § 330.63(e) and (f).

The proposed POC improves and increases the overall amount of groundwater monitoring at the Facility. The Executive Director has also preliminarily determined that the proposed POC is consistent with the definition of POC in § 330.3(106), which defines POC as "a vertical surface

located no more than 500 feet from the hydraulically downgradient limit of the waste management unit boundary, extending down through the uppermost aquifer underlying the regulatory units, and located on land owned by the owner of the facility.” The total length of the proposed POC is now greater than the existing POC and there will be more groundwater monitor wells (from the current 15 to a total of 31). The Applicant has also proposed to install 10 additional, deep monitoring wells in the western portion of the Facility. The proposed groundwater monitoring system meets the default 600-foot-maximum groundwater monitoring well spacing requirement in § 330.403(a)(2). The proposed groundwater monitoring system is shown on the drawing labeled ATT5-5, in Attachment 5 of the application.

WM conducts a voluntary monitoring program at the IWU that is outside the scope of the MSW rules. The application shows, and the Executive Director has verified, that there will be continued voluntary monitoring in the future. According to the application, the POC and increased groundwater monitoring wells are more suitably located to monitor the IWU and the Phase I Area, as portions of the proposed POC are more directly downgradient of those waste units than the existing POC and current groundwater monitoring well system. The monitoring system along the proposed POC in the vicinity of the IWU and Phase I Area will continue to include MW-11 and MW-12, and will be supplemented by six additional monitoring wells (MW-30, 44, 45, 46, 50, and 51).

In addition to reviewing the application with concern for groundwater monitoring of all the units at the Facility, including the IWU, the TCEQ has and continues to receive and review the Applicant's reports on the ongoing voluntary groundwater monitoring program for the IWU, which includes the results of groundwater monitoring in three wells (MW-29A, MW-32, and PZ-26) and inspections for evidence of groundwater seeps at the surface. The reports concluded that there were no signs of groundwater seepage to the ditches on the south side of the IWU.

COMMENT 23 Landfill Gas Management

Several commentors inquired about the rules governing landfill gas control, and about how gas releases are detected. Several commentors expressed concern that landfill gas control at the Facility is inadequate, and they were concerned that odor problems and subsurface gas migration will worsen if the landfill expands. Commentors stated that the Facility is unlikely to be able to capture all of the landfill gas due to underground seepage off site, and that when soil dries out, large cracks form that can bleed toxic gases. Several commentors expressed concern about the plans for Dell to receive electricity generated at the Facility landfill gas-to-energy (LFGTE) facility. Several commentors asked about the ownership, operation, and responsible party for the LFGTE facility, including questions about quantities of methane produced, efficiency of energy

recovery, emissions monitoring/testing, and plans for expansion of the LFGTE facility. One commentor inquired about how methane impacts global warming.

RESPONSE 23

Landfill gas consists mainly of methane and carbon dioxide with small amounts of nitrogen, oxygen, hydrogen, and non-methane organic compounds (NMOCs). Rules in 30 TAC § 330.63(g) and § 330.371 require control of landfill gas to prevent possible explosive hazards due to migration and accumulation of methane. The United States Clean Air Act and federal regulations in 40 CFR Part 60, Subpart www (Standards of Performance for Municipal Solid Waste Landfills), adopted by reference by the state, require the control of landfill gas to reduce emission of NMOCs. Subsurface gas migration and surface emissions are controlled by containment systems (liners and covers), and by an active gas collection and control system (GCCS) which applies a vacuum to the landfill through gas extraction wells installed in the waste. Gas migration in the subsurface is currently monitored, and will continue to be monitored, using a system of gas monitoring probes installed along the perimeter of the site to intercept potential gas migration pathways in the subsurface. The probes are screened from approximately 5 feet below the surface down to the depth of the seasonal low groundwater level at each probe location, with total screen intervals ranging from about 10 feet to 93 feet. The GCCS is described in Section 5 of the Landfill Gas Management Plan (LGMP) (Attachment 6 to Part III of the application). The perimeter, subsurface monitoring system and monitoring procedures are described in Section 4 of the LGMP. Section 5.1 of the LGMP acknowledges that the surface of the landfill will continue to be monitored for emissions in accordance with 40 CFR Part 60, Subpart www. The air quality aspects of the operation and maintenance of the GCCS and surface emissions monitoring are, and will continue to be governed by the Facility's air quality permit issued under Title V of the Federal Clean Air Act. Air quality matters are entirely separate and apart from the MSW landfill permit amendment application.

The landfill permit amendment application itself does not describe in detail the recently constructed LFGTE facility, but rather acknowledges its existence, shows its location, and how it is connected to the GCCS. The details of the design, operation, monitoring, and maintenance of the LFGTE facility are contained in a separate registration application that was reviewed and for which MSW Registration No. 48019 was issued on August 22, 2006. The air quality aspects of the operation of the LFGTE, including emissions limits, are specified in a separate air permit. The LFGTE facility is owned and operated by WM Renewable Energy, L.L.C., which is the holder of MSW Registration No. 48019 and is responsible for the LFGTE facility. The quantities of methane produced by the landfill and converted to energy are reported by the LFGTE operator in annually. The reports are available in the TCEQ Central File Room, Building E, Room 103, 12100 Park 35 Circle, Austin, Texas 78753, telephone (512) 239-2900. The efficiency of the LFGTE operation is not specified and is not required to be reported.

The MSW rules do not require that health impact studies be conducted before MSW landfill permits are issued; therefore, the application does not contain information about health effects of landfill gas from the existing or proposed facility. The capture and burning of methane, though it contributes to emissions of carbon dioxide, has a beneficial effect against global warming as methane is over 20 times more effective in trapping heat in the atmosphere than carbon dioxide. See U.S. Environmental Protection Agency website (www.epa.gov/methane). The Executive Director has preliminarily determined that the provisions and procedures for landfill gas management specified in the LGMP meet the requirements of 30 TAC § 330.63(g) and § 330.371, and are expected to control releases of gas and odors from the landfill.

COMMENT 24 Emissions and Air Quality

Some commentors described a smoke or smog coming from the Facility, and others were concerned about the Facility as a source of air pollution. A few commentors were concerned about ambient air monitoring and the nature of the chemical compounds being emitted from the landfill. Commentors also asked how gas releases are monitored, and what steps WM will be required to take to minimize the effect that increased numbers of diesel trucks in combination with dust and landfill gases will have on air quality.

RESPONSE 24

Air quality issues are generally outside the scope of rules that govern review of MSW landfill applications. Emissions from the Facility and any vehicle emissions related to traffic to and from the Facility are subject to applicable air quality requirements, separate and apart from this MSW permit. Air emissions from the landfill are regulated under the federal rules in 40 CFR Part 60, Subpart www (Standards of Performance for Municipal Solid Waste Landfills), adopted by reference by the state, which require an active gas collection and control system (GCCS), monitoring of conditions in the GCCS and of emissions at the surface of the landfill, and corrective action as needed to ensure compliance. The TCEQ does not consider the effects on air quality from increased numbers of diesel trucks, alone or in combination with any other factors, in deciding whether to issue a landfill permit. According to the transportation analysis in Section 3.2 of Parts I and II of the application, the existing daily traffic generated by the Facility is 390 vehicles per day, which is estimated to increase to 667 vehicles per day in the future.

The MSW rules and parts of the application also address the commentor's concerns regarding smoke and smog. Open burning of solid waste at a landfill is prohibited, except in very specific circumstances, pursuant to § 330.15(d). Section 4.3.1 in the current SOP and in the proposed

SOP specifies that there will be no burning of solid waste at the Facility. Exhaust from vehicles and other equipment may have been mistaken for smoke or smog. Also, the Facility operates a misting system to release odor-controlling compounds to help minimize odors. The mist sometimes is visible, and may have been mistaken for smoke or smog. Dust from roads or other sources, such as soil stockpiles could also be mistaken for smoke or smog. However, dust must be controlled so that it does not become a nuisance to surrounding areas, which is prohibited by § 330.15(a)(2).

The MSW rules and parts of the application also address the concerns from the commentors about landfill gas. Section 4 of the proposed Landfill Gas Management Plan (LGMP) (Attachment 6 to the Site Development Plan) for the Facility specifies that potential gas releases or migration in the subsurface will be monitored by permanent gas monitoring probes that are or will be installed at the perimeter of the Facility, as required by 30 TAC § 330.371. Section 5 of the LGMP documents that the Facility currently operates an active GCCS, and describes how that system would be expanded under the proposed amendment. Monitoring for landfill gas emissions will be required while the Facility is active and during the post-closure care period (30 years unless specified otherwise). The MSW rules do not require that health impact studies regarding air emissions from landfills be conducted prior to issuing an MSW landfill permit.

COMMENT 25 Landfill Gas-to-Energy (LFGTE) Plant

Some commentors supported WM's proposed methane gas to energy plant, and the proposed powering of the Dell Computers facilities in Round Rock, Texas. Other commentors were concerned about the long term effect of choosing the Facility as the source for the energy rather than the Williamson County Landfill, since Dell is in Williamson County.

RESPONSE 25

The establishment of an LFGTE facility is governed by the rules of the TCEQ; however, the actual electrical power generation, transmission, and marketing is in the jurisdiction of the Public Utility Commission of Texas, and was not a factor in the TCEQ review of the MSW registration for the LFGTE facility or the review of this application.

COMMENT 26 Buried Waste and the Former Industrial Waste Unit (IWU) at the Site

Several commentors expressed concern about "thousands of drums of hazardous waste" that may have been buried at the site of the industrial waste unit (IWU) within the landfill and/or the adjacent landfill, and some stated that the industrial waste needs to be removed. One commentor questioned why the buried industrial waste was not cleaned up in the past, and why the area was

not declared a federal superfund site. Some commentors requested that it be incorporated into the permit that WM is responsible, now and in the future, for any hazardous waste and any groundwater contamination that occurs on their property.

RESPONSE 26

Section 3.1.2 of the Groundwater Characterization and Monitoring Report in Attachment 5 of Part III of the application describes the voluntary groundwater monitoring program for the IWU, and states that analytical data collected under the program are compared to health-based standards established in accordance with the provisions of the Texas Risk Reduction Program detailed in 30 TAC Chapter 350. The Groundwater Characterization and Monitoring Report states that data collected by the Applicant as a part of the voluntary monitoring plan provides that the constituent levels of in the groundwater, storm water, and soils are well below prescribed action levels and currently do not pose a potential threat to potential on-site or off-site receptors. WM is responsible, now and in the future, for any liability resulting from the wastes buried within the permitted boundary of the Facility.

COMMENT 27 Wildlife Habitat, and Endangered Species Protection

Some commentors expressed disappointment at the wildlife habitat park established by the Applicant adjacent to the west end of the proposed expanded Facility boundary. Commentors stated that the wildlife habitat park has interfered with the original habitat in the area and has been taken over by coyotes and vultures. One commentor asked what the Applicant intends to do with all the mound of dirt and debris at the west end of the landfill where the wildlife habitat park is said to have been established. Some commentors expressed concern that the application does not include adequate provisions for the protection of endangered or threatened species.

RESPONSE 27

The Wildlife Habitat Park established by WM is not located within the proposed expanded permit boundary of the Facility, and is not part of the subject permit amendment application. The TCEQ is not able to comment on facilities and/or activities located outside the proposed permit boundary defined in the application. Issues relating to WM's Wildlife Habitat Park should be directed to the City of Austin and the Texas Parks and Wildlife Department.

TCEQ rules at 30 TAC § 330.61(n), § 330.157, and § 330.551 require that the application include information about the impact of the proposed development upon endangered or threatened species and their critical habitat, and the criteria for the protection of any identified endangered species. Section 3.7 of Parts I/II of the application includes information about endangered or threatened species and their habitat. Appendix A-5 of Parts I/II of the application include a threatened and endangered species assessment performed by Horizon Environmental

Services, Inc. The assessment identified no federally-listed species in the area of the site. The possibility of one state-listed species, the Texas horned lizard, on the site was however indicated. As documented in Appendix A-5, Parts I/II of the application, the Applicant contacted the US Fish and Wildlife Services (USFWS) and the Texas Parks and Wildlife Department (TPWD) regarding possible presence of threatened and endangered species in the immediate vicinity of the site. The USFWS indicated that they had no concerns related to the proposed expansion project. The TPWD offered general comments and information regarding migratory birds and the potential impact on the state-listed threatened Timber/Canebrake Rattlesnake. A supplementary report by Horizon concluded that the Timber/Canebrake Rattlesnake is very unlikely to occur on the project site due to the lack of the appropriate habitat. The application includes migratory bird and Texas horned lizard management plans as part of the SOP in Part IV of the application. The Executive Director has preliminarily determined that the proposals in the application relating to protection of endangered or threatened species meet the requirements of the above referenced rules.

COMMENT 28 Animals, Birds, and Vectors

Several commentors expressed concern that the landfill provides food for or attracts vectors (insects, rodents, birds, or other animals or organisms capable of mechanically or biologically transferring a pathogen from one organism to another). Commentors also reported that scavenging animals, such as coyotes, pass through the residential neighborhood on the way to or from the landfill. They also complained about scavenging birds that roost on houses, power lines, and in trees in the neighborhood and at the nearby elementary school, that leave messy, potentially disease-ridden droppings on the ground.

RESPONSE 28

The Executive Director has preliminarily determined that the procedures provided in Section 4.14 of Part IV, SOP, of the application for controlling on-site populations of disease vectors meet the requirements of 30 TAC § 330.151. The procedures include minimizing the size of the working face, proper waste compaction and application of daily cover, and daily checks for vector population. These procedures should adequately control scavenging animals and vectors. The SOP also includes a bird control plan which provides procedures to alter bird habitat and bird harassment methods.

If you would like to file a complaint about an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action.

COMMENT 29 Odor

Many commentors stated that the Facility has been, and continues to be, a source of noxious odors affecting people at their residences, businesses, schools, and public places, and that at times the odors are too unbearable to be able to be outside or to have windows open. Many expressed their concern that as the landfill grows the odor problem will worsen and lead to an extended period of odor releases as had occurred some years ago, which one commentor explained Waste Management was barely able to control. Some commentors expressed concern about the health effects of short term and long term exposures to the odor-causing compounds and gaseous pollutants that may be emitted along with the odor. Commentors also asked what is present in the on-site misters that are used to combat odors. One commentor asked whether the odors are coming from an inadequate leachate collection system, leachate recirculation, or from trucks bringing waste loads to the site. One commentor requested that odor control measures described as discretionary should be made mandatory.

RESPONSE 29

The Executive Director has preliminarily determined that the procedures for odor management specified in Section 4.13 of the SOP provide for adequate control of odors in accordance with 30 TAC § 330.149. If the owner or operator follows these procedures, odors from the landfill should be adequately controlled. All wastes must be managed in accordance with the odor control procedures specified in the SOP (immediate burial of particularly odorous wastes with other waste or soil). Section 4.13.3 of the SOP describes where misters may be used to release odor-controlling compounds. The MSW rules do not require that the application specify the composition of the odor-controlling compounds. However, material safety data sheets (MSDS) for the mister substance were provided in Appendix I of the SOP. If you would like to file a complaint about an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action. Information on TCEQ procedures for investigating odor complaints is available on the TCEQ Internet site at www.tceq.state.tx.us/compliance/complaints/protocols/odor_protodef.html.

The Leachate and Contaminated Water Plan (Attachment 3 in Part III of the application) details the design and operating procedures for the leachate collection system (LCS). The Executive Director has preliminarily determined that the design and plan meets the requirements of 30 TAC § 330.331, § 330.333, and § 330.177, and therefore does not expect excessive amounts of leachate to accumulate on the liner. The Executive Director does not expect gases to escape from the LCS because, according to the Section 4.13.3 of the SOP, the leachate collection system

will be connected to the gas collection and control system at the cleanout risers for the LCS. Leachate will be recirculated, as provided under Sections 4.26 of the SOP. The application includes provisions, in Section 4.13.3, to check nuisance odor conditions due to leachate recirculation.

The MSW rules do not require an applicant to specify waste collection points or service areas, therefore the Executive Director does not know the most distant collection point contributing waste to the Facility. However, all wastes must be managed in accordance with the odor control procedures specified in the SOP (immediate burial of particularly odorous wastes with other waste or soil), regardless of hauling distance. Subsection 330.105(a), 30 TAC requires that waste hauling vehicles be maintained in a sanitary condition to preclude odors.

All the measures described for odor control are mandatory. However, it is understood that all may not be applied at the same time.

COMMENT 30 Dust

Several commentors reported that dust from the Facility's roads, soil stockpiles, and other sources drift off site, and onto neighboring properties. Commentors have asked how the dust problems will be managed if an expansion is granted and activity at the site increases. One commentor asked what the health effects of dust particles are, and what chemicals the dust particles might contain or carry. One commentor reported grey, dark, ash powder.

RESPONSE 30

Section 4.15 of the SOP specifies procedures to control dust from the Facility roads as required by 30 TAC § 330.153(b). Dust from other sources, such as soil stockpiles must not create a nuisance, which is prohibited by § 330.15(a)(2). Burning of solid waste is prohibited, except in very specific circumstances, pursuant to 30 TAC § 330.15(d). The MSW rules do not require health impact studies; therefore, the application does not contain information about the health effects of dust from the existing or proposed expanded facility. The Executive Director has preliminarily determined that the application complies with all applicable requirements regarding control of dust. If dust creates a nuisance, please report the problem to the TCEQ Region 11 office in writing or in person at 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, or by telephone at (512) 339-2929.

COMMENT 31 Nuisance: Operating Hours, Noise, Light, and Vibrations

Several commentors expressed concern about the operating hours of the existing and proposed expanded facility, and the impact of noise and vibrations from landfill activities, waste trucks,

operating equipment and equipment alarms; especially at night. One commentor said that the Facility obtained their current operating hours without public input. Several commentors also expressed concern regarding nuisance bright lights, used by the landfill during nighttime operations, which illuminate and intrude into their homes and properties.

RESPONSE 31

The Facility currently operates from 9:00 p.m. Sunday through 7:00 p.m. Saturday and, if necessary, from 7 a.m. to 4 p.m. on Sunday. The Applicant proposes to maintain these hours of operation. The Executive Director is not aware of information to justify restricting the proposed operating hours. The TCEQ rules do not set specific limits on facility lighting, noise, or vibration, but MSW facilities are generally prohibited from causing a nuisance under 30 TAC § 330.15(a)(2). If noise, vibration, and/or light create a nuisance, please report the problem to the TCEQ Region 11 office in writing or in person at 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, or by telephone at (512) 339-2929.

COMMENT 32 Windblown Trash, Roadside Trash and Debris

Many commentors reported that the area around the Facility and routes to the Facility are littered with windblown trash on the ground and in fences, trees, and on farm lands. Commentors stated that they have observed trash on routes other than the primary access routes identified in the application, and beyond the area subject to daily cleanup requirements. Several commentors also reported that waste is spilled from trucks both on the way to the landfill and on the way out if they did not empty completely.

RESPONSE 32

Sections 4.8 and 4.11 of the SOP provide procedures for control of windblown solid waste and litter, and for control and cleanup of materials along the route to the site. WM is responsible for picking up litter scattered throughout the site, along fences and access roads, at the gate, and along and within the right-of-way of public access roads serving the Facility for a distance of two miles from the entrance (including any waste illegally dumped within the right-of-way). That clean up must occur at least once a day on the days that the Facility is in operation. WM is responsible for the cost of the cleanup.

The Executive Director has preliminarily determined that the application complies with the requirements of 30 TAC § 330.139 and § 330.145. If the landfill is operated in accordance with the SOP, the Executive Director expects that windblown waste and materials along the route to the site will be adequately controlled and picked up. If you would like to file a complaint about

an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action.

COMMENT 33 Prevention of Unauthorized/Prohibited Waste Disposal, Illegal Dumping, and Management/Disposal of Special Waste

One commentor expressed concern that the application does not include adequate provisions for preventing unauthorized waste from entering the Facility and for managing and disposing of special waste. Several commentors reported that illegal dumping occurs in the area by people who have come when the landfill is closed, or who find the disposal fee too high; commentors have expressed concern that the Applicant has not addressed these issues. Some commentors expressed concern that the Applicant may be accepting unauthorized waste or not managing or disposing of special waste properly. One commentor said that the number of incoming loads screened is insufficient and questioned the procedure for handling prohibited waste, and expressed concern with the Applicant's lack of effort to inform the public about waste that cannot be disposed at the Facility.

RESPONSE 33

Concerning prevention of unauthorized or prohibited waste from being disposed at the site, 30 TAC § 330.127(5) requires that the Facility's SOP include procedures for the detection and prevention of the disposal of prohibited wastes. According to this rule, the SOP procedure must, at a minimum, include random inspections of incoming loads, observance of each load by trained staff, records of all inspections, training of personnel to recognize prohibited waste, notification of TCEQ and applicable local agencies of any receipt or disposal of prohibited waste, and provision for remediation of the incident. Subsection 330.133(b), 30 TAC, among other requirements, specifies that facility staff involved with unloading/inspection must have the authority to reject unauthorized loads, have the unauthorized load removed by the transporter, and/or assess appropriate surcharges, and have the material removed by on-site personnel. Subsection 330.133(c), 30 TAC specifies that any prohibited waste must be returned immediately to the transporter or otherwise properly managed by the landfill.

Section 4.2 of the SOP describes the methods and procedures to be used to detect and prevent the disposal of prohibited waste at the site. These procedures include posting signs that identify prohibited wastes, pre-acceptance screening methods, monitoring and observance of received waste, training of staff, and maintaining inspection records. Section 4.5 of the SOP includes provisions for inspection of waste loads disposed at the site, rejection of unauthorized loads, and the removal of unloaded prohibited/unauthorized wastes. The Executive Director has

preliminarily determined that the provisions contained in the application for detection and prevention of disposal of prohibited/unauthorized waste meet the requirements of the above-sited rules.

Concerning disposal of special wastes, Sections 4.23 and 4.24 of the SOP provide procedures for acceptance and disposal of special wastes at the Facility. The Executive Director has preliminarily determined that the provisions for acceptance and disposal of special and industrial waste at the site meet the requirements of 30 TAC § 330.171 and § 330.173, respectively.

Concerning illegal dumping of waste in the areas close to the landfill, 30 TAC § 330.145 specifies that on days when the Facility is in operation, the Applicant is responsible for at least once per day 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 entrances used for the delivery of waste to the Facility. The Executive Director has preliminarily determined that the narrative provided in Section 4.11 of the SOP complies with the foregoing rule requirement. The Applicant has identified Giles Road, Highway 290, Blue Goose Road, and Johnny Morris Road as the roads they will be responsible for cleaning up as described above. Dumping of waste in unauthorized places is an illegal activity. If you observe or have information regarding illegal dumping, please contact the TCEQ Region 11 Office at 512-339-2929, and city or county officials.

Concerning the comment that the Facility accepts unauthorized waste or does not properly manage or dispose of special waste properly, the Facility accepts "municipal solid waste" as this term is defined in 30 TAC § 330.3(88) as solid waste resulting from, or incidental to, municipal, community, commercial, institutional and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste. The Facility also accepts brush and construction-demolition waste. Special wastes will be accepted and handled in accordance with 30 TAC § 330.171, and as described in Section 4.23 of Part IV of the application. Nonhazardous Class 2 and Class 3 industrial solid waste may be accepted and handled in accordance with 30 TAC § 330.173, and as described in Section 4.24 of Part IV of the application. The Facility will not accept hazardous wastes (other than municipal hazardous waste from conditionally exempt small quantity generators), radioactive wastes (except for certain low-level radioactive wastes as allowed in writing by the Texas Department of State Health Services); PCB wastes, nonhazardous Class 1 industrial wastes (except for waste that is Class 1 only because of asbestos content), untreated medical wastes, and other prohibited wastes pursuant to 30 TAC § 330.15 and as described in Section 4.2.2 of Part IV of the application. The Executive Director has preliminarily determined that the methods and procedures described in the application for managing and disposing of special complies with the applicable special waste management and disposal rules. Accepting unauthorized or prohibited waste would be a violation of the Applicant's permit. If you would

like to file a complaint about an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action.

Concerning the comment on the number of loads screened, the procedure for handling prohibited waste, and keeping the public informed on prohibited wastes, Section 4.2.3 of the SOP specifies that the site manager will randomly select no less than five incoming loads per week for random inspection pursuant to 30 TAC § 330.127(5)(A). This is in addition to monitoring waste arriving at the gate, and observing the waste being disposed of at the working face by equipment operators as described in Sections 4.2 and 4.5. Random inspection is a more elaborate inspection to assure that waste loads contain what the waste manifest describes. The Executive Director has preliminarily determined that the procedures for handling prohibited waste described in the application meet the requirements of 30 TAC § 330.127(5). The Facility is required to return prohibited waste to the transport or otherwise manage it properly. Section 4.2.1 includes methods of keeping customers informed of waste streams prohibited from acceptance at the site. These methods include posting of signs at the Facility entrance, providing customers with a written list of prohibited waste, and providing vehicle drivers of incoming waste from transfer stations and transfer station operators with a written list of prohibited waste. The Executive Director has preliminarily determined that these measures meet the requirements of the above cited rules relating to the prevention and detection of prohibited waste.

COMMENT 34 Landfill Daily Cover and Working Face

One commentor expressed concern that the application does not include adequate provisions for soil daily cover. A few commentors expressed concern about the cover of the landfill, such as the material used and the frequency of the covering process. Some commentor asked that the Facility not be allowed to use alternative daily cover materials. Other commentors expressed concern about the working face (number, size, and visibility from the highway). Commentors were concerned that the working faces were too numerous and too large, that the working face is too visible from US Highway 290 East, and the criteria for setting the size of the working face. Commentors requested that the draft permit place mandatory limit to the size of the working face be limited because of proximity to sensitive receptors.

RESPONSE 34

The landfill cover systems (daily, intermediate, and final cover) are discussed in Section 4.21 of the SOP in Part IV of the application. The daily cover will consist of a minimum of six inches of

compacted earthen material that has not been previously mixed with garbage, rubbish, or other solid waste. The application also proposes use of alternative daily cover (ADC) materials on a very limited basis (during conditions that prohibit access to borrow soils for a period). Procedures for applying and for maintaining the daily cover, as well as an ADC operating plan are provided in the application. Only tarp is proposed for use as ADC at the Facility.

Concerning frequency of the covering process, the application specifies that daily cover will be applied at the end of each working day or at least once every 24 hours. ADC will be used only if extreme weather events or other natural disasters prohibit access to borrow soils for a period.

Concerning prohibiting the Facility from using ADC, 30 TAC § 330.165 allows an applicant to propose use of ADC after, among other requirements, the applicant must show what effect the ADC material has in relation to vectors, fires, odors, and windblown litter and waste following a six month trial period during which status reports are submitted to the TCEQ every two months on the performance of the ADC. Based on the results of the first six months of use, the TCEQ, may deny the request of the use of certain materials as ADC. Otherwise, the TCEQ has no authority to prohibit use of ADC at landfills. The Executive Director has preliminarily determined that the provisions in the application relating to daily cover meet the requirements of 30 TAC § 330.165(a) and (b).

Concerning working face number, size, and visibility from the highway, 30 TAC § 330.133(a) specifies that the unloading of solid waste be confined to as small an area as practical, that the maximum size of the unloading area be identified, and that the number and types of unloading areas be identified. Section 330.139, 30 TAC specifies that the working face be maintained and operated in a manner to control windblown solid waste, while 30 TAC § 330.129 specifies that the owner or operator shall maintain a source of earthen material in such a manner that it is available at all times to extinguish any fires, the source of earthen material must be sized to cover any waste received for disposal not covered with six inches of earthen material. Sufficient on-site equipment must be provided to place a six-inch layer of earthen material to cover any waste not already covered with six inches of earthen material within one hour of detecting a fire. An SOP must contain calculations demonstrating the adequacy of the earthen material, and to demonstrating that the type and number of equipment listed in the SOP will be able to transport the volume of earth required.

The MSW rules do not place any limitation on the number of working faces, nor is the maximum size that would be considered "practical" specified. The MSW Permits Section uses the Facility's capacity to comply with the provisions of 30 TAC § 330.139 (ability to control windblown solid waste) and 30 TAC § 330.129 (availability of soil materials and equipment to cover the working face with 6 inches of earthen material within one hour of a fire) to evaluate the adequacy and practicality of proposed working face sizes. The application (Section 4.5 of the SOP) proposes a maximum number of working faces of five, with the maximum size being no more than 60,000 square feet (200 ft x 300 ft). The Executive Director has preliminarily

determined that the discussions and analysis provided in Section 4.3.2 of the SOP indicate that that the Facility will meet the requirements of 30 TAC § 330.129, while the discussion provided in Section 4.8 of the SOP indicate that the Facility will meet the requirements of 30 TAC § 330.139. In addition, the application states that typically there will be only one open working face as a general rule.

Concerning the visibility of the working face from Highway 290, the Applicant has committed, as described in Section 4.25 of the SOP, to operate in a manner that will provide maximum screening of the operations from public view.

The Executive Director has preliminarily determined that the daily cover and working face specifications provided in the application meet the requirements of the rules cited above.

COMMENT 35 Site Operating Procedures

Some commentors expressed concern that the SOP language is too general, and lacks specificity on how the Applicant will address all the problems associated with the Facility's operation. The commentors requested that measures in the SOP described in discretionary terms be made mandatory, and hence enforceable. The commentors also requested that procedures be based on performance criteria and be subject to documentation.

RESPONSE 35

The SOP contains information about how the site operator will conduct operations at the site, but is not intended to be a comprehensive operating manual. The SOP represents the design engineer's general instruction for site management and site operating personnel to operate the site in a manner consistent with the engineer's design and the TCEQ rules. Subchapter D of Chapter 330, 30 TAC (relating to Operational Standards) is very detailed, and serves the purpose of protecting human health and the environment, and preventing nuisances. The SOP should include general instructions and, where necessary to meet the regulatory requirements, specific instructions, procedures, tables, and schedules for the subjects listed in the rules for SOPs. The Executive Director has preliminarily determined that the information submitted in the application meets the requirements of the TCEQ's MSW rules.

COMMENT 36 Financial Assurance and Corrective Action Cost Estimate

Some commentors expressed concern that the application does not include adequate provisions for compliance with financial assurance requirements. A few commentors expressed concern

that the application does not include financial assurance for cleanup should a release associated with the buried industrial waste barrels occur.

RESPONSE 36

According to the 30 TAC § 330.63(j), applicants must submit a cost estimate for closure and post closure care in accordance with Subchapter L of Chapter 330, 30 TAC, as well as a copy of the documentation required to demonstrate financial assurance as specified in Subchapter R of Chapter 37, 30 TAC. Authorization to operate this facility is contingent upon the maintenance of financial assurance in accordance with Chapter 37, Chapter 330, and the provisions contained in the permit. Details of the provisions for cost estimates for closure, post-closure care, and for corrective action on which the respective financial assurance amounts are based are provided in Attachment 9 of Part III of the application. The cost estimate for closure is given as \$7,186,799 (2006 dollars) while the cost estimate for post closure care is given as \$4,654,923 (2006 dollars). These amounts will be adjusted as conditions change at the landfill, and annually for inflation. A copy of the documentation required to demonstrate current evidence of financial assurance is provided in Appendix B, Attachment 9 of Part III of the application. The Executive Director has reviewed the cost estimates for closure and post closure care in Attachment 9 of Part III of the application, and preliminarily determined that this information complies with the requirements of section 330.63(j).

Concerning the comment on financial assurance for cleanup, 30 TAC § 330.509 requires that the owner or operator of a municipal solid waste management unit that is required to undertake a corrective action program, pursuant to 30 TAC § 330.415 (relating to Implementation of Corrective Action Program), prepare a detailed written cost estimate, in current dollars, of the cost of hiring a third party to perform the corrective action program. Currently, the Facility is not required to undertake a corrective action program; therefore, a cost estimate and financial assurance for corrective action are not required. If at some time corrective action is required, the Applicant will be required to submit a permit modification to incorporate the cost estimate and to provide financial assurance.

COMMENT 37 Facility Closure, Post-Closure Care, and Use of Land after Closure

One commentor expressed concern that the application does not include adequate provisions for closure and post-closure care. Some commentors inquired about what plans the Applicant has for using the land after the landfill closes. One commentor expressed concern about landfill gas after the landfill closes.

RESPONSE 37

Subsection 330.21(c), 30 TAC specifies that any person that stores, processes, or disposes of municipal solid waste is subject to the applicable provisions in Subchapter K of Chapter 330 (relating to Closure and Post-Closure). Also, 30 TAC § 330.63(h) specifies that the facility closure plan shall be prepared in accordance with Subchapter K of 30 TAC Chapter 330 (relating to Closure and Post-Closure). For a landfill unit, the closure plan will include a contour map showing the final constructed contour of the entire landfill to include internal drainage and side slopes, plus accommodation of surface drainage entering and departing the completed fill area, plus areas subject to flooding due to a 100-year frequency flood. Cross-sections shall be provided. 30 TAC § 330.63(i) specifies that the facility post-closure care plan shall be prepared in accordance with Subchapter K of 30 TAC Chapter 330. Subsections 330.67(b) and (c), 30 TAC specify that the owner or operator shall retain the right of entry to the facility until the end of the post-closure care period for inspection and maintenance of the facility and that the Executive Director approval or a permit will be required if any on-site operations subsequent to closure of a landfill facility involve disturbing the cover or liner of the landfill. The proposed closure and post-closure care plans for the proposed expansion are provided in Attachments 7 and 8 to Part III of the application. The Executive Director has preliminarily determined that the information provided in Attachments 7 and 8 to Part III of the Application comply with the rules relating to closure and post-closure care referenced above.

Concerning the Applicant's plans for using the land and monitoring of landfill gas after the landfill closure, Attachment 7 (Final Closure Plan) to Part III of the application does not indicate that the Applicant has any plans regarding the use of the land after the landfill closes. Use of the land is restricted according to the provisions of 30 TAC Chapter 330, Subchapter T (relating to Use of Land Over Closed Landfills). The owner or operator must submit any plans for proposed construction activities or structural improvements on a closed municipal solid waste landfill unit to the Executive Director for review and approval. (Use of Land over Closed Municipal Solid Waste Landfills). The owner or operator is required by 30 TAC § 330.463(b)(1) to continue monitoring programs, including landfill gas monitoring, during the post-closure care maintenance period.

COMMENT 38 Fire Protection and Alternative Daily Cover

One commentor expressed concern that the application does not include adequate provisions for fire protection. One other commentor expressed concern that the fire protection plan is flawed because it does not consider that the Facility intends to use alternative daily cover (ADC) consisting of tarp and/or other untested materials

RESPONSE 38

Under the requirements of 30 TAC § 330.129, the owner or operator of a landfill shall maintain a source of earthen material in such a manner that it is available at all times to extinguish any fires. The source must be sized to cover any waste received for disposal not covered with six inches of earthen material. Sufficient on-site equipment must be provided to place a six-inch layer of earthen material to cover any waste not already covered with six inches of earthen material within one hour of detecting a fire. An applicant is also required to include in the SOP calculations demonstrating the adequacy of the earthen material, and that the type and number of equipment listed will be able to transport the volume of earth required. The SOP should also include a fire protection plan that identifies the fire protection standards to be used at the facility and how personnel are trained. For any municipal solid waste activity on a landfill that stores or processes combustible materials, the SOP must address fire protection measures specific to each individual activity and must contain a requirement that the TCEQ's regional office be contacted immediately in the event of a fire that is not extinguished within ten minutes of detection, but no later than four hours by telephone, and in writing within 14 days with a description of the fire and the resulting response. Details of the fire protection plan for the proposed expansion are provided in Section 4.3 of Part IV, SOP, of the application. The Executive Director has preliminarily determined that the information provided in the application on fire protection complies with the above referenced MSW rule.

The relationship of ADC to provisions for fire protection is as follows. Alternative Daily Cover materials, such as tarp, are not used for extinguishing fires at landfills. In order to approve the use of ADC, 30 TAC § 330.165(d)(1)(B) requires that the alternative daily cover operating plan include the effect of ADC on fires, among other effects on vectors, odors, and windblown litter and waste. The above referenced MSW rule specifies the use of earthen materials (or approved alternative methods) for this purpose. Thus, materials that will easily start or propagate fires may not be used as ADC materials.

COMMENT 39 Accuracy of Maps and other information in the Application

Some commentors expressed concern about the accuracy of certain information, including maps, provided in the application. Commentors specifically identified maps labeling a portion of the south of the industrial waste unit area within the Waste Management site as "Old Travis County

Landfill (Closed)” instead of “Old Phase One” as used in earlier drawings of the site plan, the date of closure of Travis County Landfill (1975 versus 1982), the non-inclusion of the groundwater monitoring wells installed around the industrial waste unit area, the non-inclusion of the drainage ditch “that Waste Management has been filling up with waste and soil to cover up the seeps that occasionally surface,” inconsistency in the date of Revision 6 of the application, and the date of purchase of parts of the Facility land (mid-80s versus 1981).

RESPONSE 39

The application was reviewed based on information provided by the Applicant. Not all of the information has been independently verified. Subsection 330.57(d), 30 TAC specifies that it is the responsibility of an applicant to provide the Executive Director 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 constitutes grounds for denial of the permit or application. These discrepancies will be part of the issues to be addressed during the hearing process.

COMMENT 40 Testing for Pollutants and Chemicals of Concern

One commentor, concerned about potential water pollution, asked if testing was being conducted in all the right places. Another commentor suggested adding a special provision to the permit to require that the Facility conduct ambient air monitoring to monitor for toxic gases, such as hydrogen sulfide. One commentor asked whether WM will be required to test for constituents in Appendix IX to 40 CFR Part 264 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities).

RESPONSE 40

Groundwater monitoring will be conducted at all of the monitoring well locations proposed in the application. The Executive Director has preliminarily determined that the groundwater monitoring system design, including number, locations, and depths of monitoring wells meets the requirements of 30 TAC § 330.403. Stormwater discharges from the site are governed by the Facility’s Texas Pollutant Discharge Elimination System (TPDES) permit, which prohibits polluted/contaminated stormwater from being discharged from the site. The Facility will not specifically be required to monitor groundwater for listed constituents in Appendix IX to 40 CFR Part 264. The Facility will conduct groundwater detection monitoring in accordance with 30 TAC § 330.407 for listed constituents in Appendix I to 40 CFR Part 258 (Criteria for Municipal Solid Waste Landfills). If assessment monitoring is triggered, the Facility will conduct assessment monitoring in accordance with 30 TAC § 330.409 for constituents in Appendix II to

40 CFR Part 258, which contains most or all of the listed constituents in Appendix IX to 40 CFR Part 264.

If you would like to file a complaint about an existing facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the TCEQ at 888-777-3186 or the TCEQ Region 11 Office at 512-339-2929. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints. If the Executive Director finds that a facility is out of compliance, it will be subject to enforcement action.

COMMENT 41 Recycling and Waste Minimization

Some commentors want the city to increase its recycling operations so as to lessen the amount of waste, and force the Facility to find a new location. Several commentors stated that the region is already working to reduce its waste, so massive landfills or expansions are not needed. Some commentors want the Applicant to give increased attention to recycling and incineration as an alternative to landfilling, to continue their commitment to electronic recycling, and to look for more opportunities in recycling and landfill gas-to-energy production. One commentor expressed concern that there appears to be more profit in landfilling than in recycling, and that the TCEQ does very little for recycling.

RESPONSE 41

Waste minimization and recycling are vital elements of the TCEQ's stated goal of the safe management of waste. The TCEQ has established rules and public outreach programs that support the diversion of materials from solid waste streams, to promote the economic recovery and reuse of materials, and to support the development of markets for recycled, remanufactured, or environmentally sensitive products or services in a sustainable manner that protects the environment, public health and safety. However, there is no requirement in TCEQ MSW rules to mandate recycling as part of a permit amendment application for a landfill expansion. The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider efforts to reduce waste in

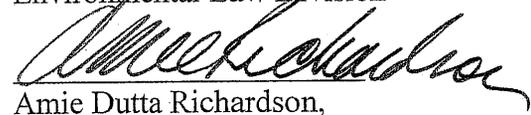
an area when determining whether to approve or deny a permit application. The TCEQ will continue to encourage this and other municipal solid waste management facilities to increase their commitment to recycling.

Respectfully Submitted,

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Glenn A. Shankle
Executive Director

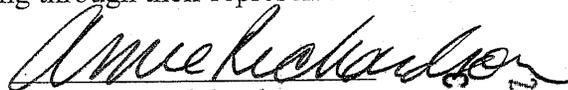
Robert Martinez, Division Director
Environmental Law Division



Amie Dutta Richardson,
Staff Attorney
State Bar No. 00793661
Timothy Reidy
Staff Attorney
Sate Bar No. 24058009
Environmental Law Division
TCEQ
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512)239-2999
(512)239-0606 (FAX)

CERTIFICATE OF SERVICE

I certify that on June 13, 2008, the foregoing was filed with the Office of the Chief Clerk, sent to the Administrative Law Judge and OPIC by Hand Delivery, and emailed and sent by certified mail to all other parties to the Contested Case Hearing through their representatives.



Amie Dutta Richardson
Environmental Law Division, MC-173

2008 JUN 13 AM 11:52
CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Executive Director's Response to Comments
SOAH Docket No. 582-08-2186
TCEQ Docket No. 2006-0612-MSW
Proposed Permit 249D



100-100000-100000

100-100000-100000

100-100000-100000

SERVICE LIST
SOAH Docket No. 582-08-2186

VIA MESSENGER

ADMINISTRATIVE LAW JUDGE

The Honorable Roy Scudday
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78701
Fax (512) 475-4994

VIA INTERAGENCY MAIL AND EMAIL

TCEQ PUBLIC INTEREST COUNSEL:

Christina Mann
Office of the Public Interest Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC 103
Austin, Texas 78711-3087
Tele: (512) 239-6363
Fax: (512) 239-6377
cmann@tceq.state.tx.us

VIA HAND DELIVERY

TCEQ CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P. O. Box 13087
Austin, TX 78711-3087
Fax. (512) 239-3311

VIA EMAIL and CMRRR

PROTESTANT GROUP I

James B. Blackburn
Mary W. Carter
Blackburn & Carter
4709 Austin Street
Houston, Texas 77004
Tele: (713) 524-1012
Fax: (713) 524-5165
Email: jbb@blackburncarter.com
mccarter@blackburncarter.com

VIA EMAIL and CMRRR

APPLICANT

John A. Riley
Bryan J. Moore
M. Nicole Adame Winningham
Vinson & Elkins, LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746-7568
Phone: (512) 542-8400
Fax: (512) 542-8612
bmoore@velaw.com

VIA EMAIL and CMRRR

TRAVIS COUNTY

Annalynn Cox
Assistant Travis County Attorney
Sharon Talley
Assistant Travis County Attorney
Travis County Attorney's Office
P.O. Box 1748
Austin, Texas 78767
Phone: (512) 854-4234
Fax: (512) 854-4808
Email: annalynn.cox@co.travis.tx.us

VIA EMAIL and CMRRR

CITY OF AUSTIN, TEXAS

Meitra Farhadi
Assistant City Attorney
City of Austin Law Department
301 W. 2nd Street
P.O. Box 1546
Austin, Texas 78767-1546
Phone: (512) 974-2310
Fax: (512) 974-6490
meitra.farhadi@ci.austin.tx.us

SERVICE LIST
SOAH Docket No. 582-08-2186

VIA EMAIL and CMRRR

GILES HOLDING

Paul Terrill
The Terrill Firm, P.C.
810 W 10th St
Austin, TX, 78701
Phone: (512) 474-9100
Fax: (512) 474-9888
pterrill@terrill-law.com

VIA EMAIL and CMRRR

TJFA

Erich M. Birch
Angela K. Moorman
Birch, Becker & Moorman, LLP
Plaza 7000, 2nd Floor
7000 North Mopac Expressway
Austin, Texas 78731
Phone: (512) 514-6747
Fax: (512) 514-6267
Email: amoorman@birchbecker.com
ebirch@birchbecker.com

VIA EMAIL and CMRRR

Williams Development and Evan Williams

Evan Williams
524 North Lamar Suite #203
Austin, Texas 78703
ew@austin.rr.com
Phone: 512.477.1277
Fax: (512) 320-8507