

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 25, 2024

TO: All interested persons.

RE: SouthWaste Disposal, LLC
MSW Permit No. 2317

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the permit amendment application, Executive Director's preliminary decision, and draft limited scope amendment document are available for viewing and copying at the Central Library, located at 600 Soledad Street, San Antonio, Texas 78205. The permit application may be viewed online at <http://parkhill.com/tceq-permits/>.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

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

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

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

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

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

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

Deadline for Submitting Requests.

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

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
SouthWaste Disposal, LLC
MSW Permit No. 2317

The Executive Director has made the Response to Public Comment (RTC) for the application by SouthWaste Disposal, LLC for MSW Permit No. 2317 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (2317) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the permit amendment application, Executive Director's preliminary decision, and draft limited scope amendment document are available for viewing and copying at the Central Library, located at 600 Soledad Street, San Antonio, Texas 78205. The permit application may be viewed online at <http://parkhill.com/tceq-permits/>.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

25 de junio de 2024

TO: Todas las personas interesadas.

RE: SouthWaste Disposal, LLC
MSW Permiso No. 2317

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, la solicitud del permiso, la decisión preliminar del Director Ejecutivo y el borrador del permiso están disponibles para examinar y copiar en el Central Library, situado en 600 Soledad Street, San Antonio, Texas, 78205. La solicitud de permiso se puede ver en línea en <http://parkhill.com/tceq-permits/>.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de

audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
SouthWaste Disposal, LLC
MSW Permiso No. 2317

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de SouthWaste Disposal, LLC del permiso de MSW No. 2317. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (2317) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, la solicitud del permiso, la decisión preliminar del Director Ejecutivo y el borrador del permiso están disponibles para examinar y copiar en el Central Library, situado en 600 Soledad Street, San Antonio, Texas, 78205. La solicitud de permiso se puede ver en línea en <http://parkhill.com/tceq-permits/>.

MAILING LIST / LISTA DE CORREO
for / para
SouthWaste Disposal, LLC
MSW Permit No. 2317 / MSW Permiso No. 2317

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Ben Camacho
Southwest Disposal, LLC
16350 Park Ten Pl, Suite 215
Houston, Texas 77084

Spencer Harvey
Parkhill
800 South Polk Street, Suite 200
Amarillo, Texas 79101

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list. / Ver lista adjunta.

FOR THE EXECUTIVE DIRECTOR /
PARA EL DIRECTOR EJECUTIVO
via electronic mail /
por correo electrónico:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

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

Arin Anderson, Technical Staff
Texas Commission on Environmental
Quality
Waste Permits Division MC-126
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS
PÚBLICO
via electronic mail /
por correo electrónico:

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

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

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

ARREGUIN , VINCENT V
3024 CENIZO
SAN ANTONIO TX 78264-9504

AVILA , KATHRYN
20415 BUFFALO RDG
SAN ANTONIO TX 78264-4026

ESPINOZA , MS ADELAIDA
3491 S LOOP 1604 E
SAN ANTONIO TX 78264-9530

GONZALEZ , MIZDEN
21022 LAMM RD
ELMENDORF TX 78112-1100

HERNANDEZ , MRS STELLA
20260 CAMPBELLTON RD
SAN ANTONIO TX 78264-4400

LYNCH , ANGELA
20515 LORENA XING
SAN ANTONIO TX 78264-4083

MONCIVAEZ , INGRID
8210 GLASGOW DR
SAN ANTONIO TX 78223-1723

PERALTA , JENNY
3723 PRAIRIE POND
SAN ANTONIO TX 78264-4084

PEREZ , ASHLEY
3491 S LOOP 1604 E
SAN ANTONIO TX 78264-9530

RAMIREZ , CLARISSA
3024 CENIZO
SAN ANTONIO TX 78264-9504

RAMIREZ , MR ROLANDO
SOUTHSIDE ISD
1460 MARTINEZ LOSOYA RD
SAN ANTONIO TX 78221-9648

REED , JEFFREY S.
LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C.
STE 1900
816 CONGRESS AVE
AUSTIN TX 78701-2442

SILVA , CRYSTAL
3435 REDBUD GRV
SAN ANTONIO TX 78264-4477

THOREN , MARY JOY
20415 LORENA XING
SAN ANTONIO TX 78264-4082

TORRES , EVELYN
4630 WATERWOOD PASS DR
ELMENDORF TX 78112-6205

VILLARREAL , MR ROBERTO
21030 LAMM RD
ELMENDORF TX 78112-1100

**TCEQ LIMITED-SCOPE PERMIT AMENDMENT
APPLICATION NO. 2317**

**APPLICATION BY
SOUTHWASTE DISPOSAL, LLC
FOR MSW PERMIT NO. 2317**

**§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the limited-scope amendment application (LSA Application) by SouthWaste Disposal, LLC (SouthWaste Disposal or Applicant), for a composting facility, Municipal Solid Waste (MSW) Permit Number 2317 and on the Executive Director's preliminary decision. The LSA Application would change the hours of operation, equipment used, energy and mass balance calculations, closure and post-closure care plan, and increase the amount of feedstocks received at the composting site.

As required by 30 Texas Administrative Code (TAC) Section 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Executive Director is filing this Response to provide a response to public comments received in a timely manner.

This Response addresses all such public comments received, whether or not withdrawn, with the exception of comments that are outside the scope of this LSA Application. In accordance with 30 TAC §305.62(j)(2), only the portions of the permit and attachments to which changes are being proposed are required to be submitted by the applicant. Additionally, the Executive Director's review and any hearing or proceeding on an amendment subject to 30 TAC §305.62(j)(2) shall be limited to the proposed changes. This LSA Application proposes changes to the hours of operation, equipment used, energy and mass balance calculations, closure and post-closure care plan, and increases the amounts of feedstocks received at the composting site. Pursuant to 30 TAC §305.62(j)(2), public comments outside the scope of this LSA Application were related to water quality, windblown material from the facility, and impacts to livestock. If you need more information about this permit application or the permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov/.

I. Background

A. Facility Description

SouthWaste Disposal, 16350 Park Ten Place #215, Houston, Texas 77084 currently operates a composting facility located at 20805 Old Lamm Road, Elmendorf, Bexar County, Texas 78112. The facility consists of a 28.6-acre tract of land located less than one mile southeast of the intersection of Interstate Highway 37 and Loop 1604. The facility processes waste products such as grease trap waste into beneficial reuse compost. The permitted facility includes bulk material chipping and storage areas, a lined grease trap waste/septic/sewage sludge (GSS) processing area (composting pad), separate composting areas for other approved wastes, retention pond, post-processing area, aboveground feedstock storage tanks, and office areas (which include toilet and potable water facilities). GSS composting and curing processes are restricted to this lined GSS processing area, which comprises 6.5 acres of the facility.

B. Application Description

SouthWaste Disposal has applied to the TCEQ for a permit amendment to authorize changes to the hours of operation, equipment used, energy and mass balance calculations, closure and post-closure care plan, and an increase in the amount of feedstocks received at the composting site. The LSA Application, if granted, would change the hours of operation from 7:00 am to 6:00 pm to 8:00 am to 5:00 pm. The equipment used would change the above ground storage tanks from ten 18,000-gallon tanks to four 30,000-gallon tanks. The energy and mass balance calculations, which are used to determine the expected final product quantity from the processing of specified amounts of bulking material and feedstocks, would be updated to reflect proposed feedstock increases. The closure and post-closure care plan would change the current cost of the anticipated closure from \$356,621 to \$599,497. The amount of feedstocks received at the composting site would increase from 36,400 tons to 73,000 tons annually. During normal operations, the processing area contains multiple rows of compost in various stages of maturity. The volume of this immature compost is anticipated to change from approximately 8,840 cubic yards or approximately 4,860 tons to 16,900 cubic yards or approximately 6,350 tons.

C. Procedural Background

The LSA Application was received on August 7, 2023. An administrative Notice of Deficiency letter (NOD) was mailed on August 15, 2023. A response to the NOD was sent on August 18, 2023. The LSA Application was declared administratively complete on September 6, 2023. The Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment (NORI) was issued on September 6, 2023, and mailed on September 13, 2023. The NORI was published on September 10, 2023, in Spanish in *La Prensa Texas*; and on September 14, 2023, in *San Antonio Express-News* in Bexar County, Texas.

A technical NOD was mailed on October 10, 2023. A response to the NOD was sent on October 17, 2023. The Executive Director completed the technical review of the application on March 18, 2024. The Notice of Application and Preliminary Decision was published on March 22, 2024, in *San Antonio Express-News*; and on March 24, 2024, in Spanish in *La Prensa Texas*, in Bexar County, Texas. The public comment period for the LSA Application ended on April 23, 2024.

To determine whether to hold a public meeting for an application, the Executive Director considered the factors set forth in 30 TAC §39.501. According to 30 TAC §39.501(e)(1)(B), the Executive Director will hold a public meeting on the request of a member of the legislature who represents the general area in which the facility is located or when there is substantial public interest in the facility. Substantial public interest exists if a request for a public meeting is filed by: a group of ten or more local residents, property owners, or businesses located in the general area of the facility; a local government entity with jurisdiction over the location at which the facility is located by formal resolution of the entity's governing body; a council of governments with jurisdiction over the location at which the facility is located by formal request of either the council's solid waste advisory committee, executive committee, or governing board; or a homeowners' or property owners' association formally organized or chartered and having at least ten members located in the general area in which the facility is located. The Executive Director received five public meeting requests on this application. Based on these factors, the Executive Director did not hold a public meeting on the LSA Application.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application." Texas Water Code (TWC) §5.115(a-1)(2)(B).

II. Public Comments Received

The Office of the Chief Clerk received timely comment letters from the following individuals:

Vincent Arreguin
Kathryn Avila
Adelaida Espinoza
Mizden Gonzalez
Stella Hernandez
Angela Lynch
Ingrid Moncivaez
Jenny Peralta

Ashley Perez
Clarissa Ramirez
Rolando Ramirez
Crystal Silva
Mary Joy Thoren
Evelyn Torres
Roberto Villarreal

III. Access to Rules, Laws, and Information

- The Texas Secretary of State webpage is sos.state.tx.us.
- TCEQ rules in Title 30 of the Texas Administrative Code are available at sos.state.tx.us/tac/ by selecting “View the current Texas Administrative Code” on the right, and then selecting “Title 30 Environmental Quality.”
- Texas statutes are available at statutes.capitol.texas.gov.
- Federal rules in Title 40 of the Code of Federal Regulations are available at the EPA’s public webpage at epa.gov/laws-regulations/regulations.
- Federal environmental laws are available at the EPA’s public webpage at epa.gov/laws-regulations/laws-and-executive-orders.
- General information about TCEQ can be found at the Commission’s public webpage at tceq.texas.gov.
- Information about the TCEQ permitting process from TCEQ Public Education Program: 1-800-687-4040.
- You may receive a paper copy of this Response by contacting the TCEQ Office of the Chief Clerk, at 512-239-3300.
- The Application, the Executive Director’s preliminary decision, and draft limited scope amendment document are available for viewing and copying at the Central Library, located at 600 Soledad Street, San Antonio, Texas 78205. The permit application may be viewed online at <http://parkhill.com/tceq-permits/>.
- Commission records for this application and draft permits are available for viewing and copying in the Office of the Chief Clerk (OCC) at the TCEQ main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor. Certain documents located in OCC may also be viewed in the Commissioner’s Integrated Database at: www14.tceq.texas.gov/epic/eCID/.

IV. Public Comments and Responses

Comment No. 1: Odor

Vincent Arreguin, Kathryn Avila, Adelaida Espinoza, Mizden Gonzalez, Stella Hernandez, Angela Lynch, Jenny Peralta, Ashley Perez, Clarissa Ramirez, Rolando Ramirez, Crystal Silva, Mary Joy Thoren, and Roberto Villarreal expressed concerns that the existing facility produces nuisance odors and expressed their general opposition to the proposed changes to the facility. Kathryn Avila, Mizden Gonzalez, Ashley Perez, and Rolando Ramirez raised concerns that strong odors from the facility are misattributed to gas leaks.

Response No. 1:

30 TAC §332.4(2) states that composting must be conducted in a sanitary manner that prevents the creation of nuisance conditions as defined in 30 TAC §330.3 (relating to Definitions) and as prohibited by the Texas Health and Safety Code, Chapters 341 and 382 (Minimum Standards of Sanitation and Health Protection Measures; and Clean Air Act), the TWC, Chapter 26 (Water Quality Control), 30 TAC

§101.4 (relating to Nuisance), and any other applicable regulations or statutes. In addition, 30 TAC §332.45 requires the operator to immediately take action to abate nuisances.

In accordance with 30 TAC §332.8, prior to receiving any material with a high odor potential such as dairy material, meat, fish, and oil and grease, the operator must ensure that there is an adequate volume of bulking agent to blend with or cover the material and must begin processing the material in a manner that prevents nuisances. Additionally, 30 TAC §332.47(7)(J) requires a composting facility to submit a site operating plan (SOP), which includes specific guidance or instructions on minimizing odors.

Section 4.9 of the facility's SOP includes an odor management plan that instructs site management and operating personnel to store liquid feedstocks in enclosed above ground storage tanks, not apply feedstocks during high winds, use adequate bulking material, and turn or till bulking material immediately after feedstocks are applied in order to control the development of odor conditions.

If objectionable odors occur, the owner or operator must initiate appropriate measures to alleviate the condition. TCEQ encourages members of the public to report any observed violations at a facility to the Regional Office. Complaints regarding the facility may be made by contacting the Region 13 TCEQ Office in San Antonio, Texas at 210-490-3096 or the toll-free Environment Violation Hotline at 1-888-777-3186. Complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>. If the facility violates a term of the permit or TCEQ's regulations, the permittee may be subject to an enforcement action. For information on TCEQ's odor complaint investigation procedures, interested persons are encouraged to visit: https://www.tceq.texas.gov/compliance/complaints/odor_complaint.html. In addition, if the amendment application is approved, it would not limit the public's ability to use common law remedies for a nuisance in response to activities that interfere with their use and enjoyment of their property.

The Executive Director has reviewed the application and preliminarily determined that it satisfies the regulatory requirements regarding applicable odor and nuisance requirements.

Comment No. 2: Business

Vincent Arreguin, Kathryn Avila, Ingrid Moncivaez, and Ashley Perez raised concerns that the compost facility negatively affects businesses in the area.

Response No. 2:

The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ does not have jurisdiction to consider economic or tax impacts in surrounding areas when determining whether to approve or deny a permit application.

Comment No. 3: Air Quality

Adelaida Espinoza, Mizden Gonzalez, Clarissa Ramirez, and Evelyn Torres raised concerns about air quality and potential air emissions from the facility. Vincent Arreguin, Kathryn Avila, Mizden Gonzalez, Ashley Perez, Clarissa Ramirez, Rolando Ramirez, and Roberto Villarreal expressed concerns over the negative health effects that emissions could have on children and nearby residents, especially those with asthma and other respiratory concerns.

Response No. 3:

In accordance with 30 TAC §332.8, composting operations are required to apply for an air quality permit under 30 TAC Chapter 116 or meet all the applicable air quality requirements listed in 30 TAC §332.8(e) in order to obtain an air quality standard permit. The applicant has met all the applicable air quality requirements and is entitled to an air quality standard permit.

Additionally, 30 TAC §332.47(7)(I) requires a composting facility to submit a SOP, which includes specific guidance or instructions for controlling airborne emissions. Section 4.8 of the facility's SOP indicates that no specifically regulated airborne emissions are anticipated to be generated.

TCEQ encourages members of the public to report any observed violations at a facility to the Regional Office. Complaints regarding the facility may be made by contacting the Region 13 TCEQ Office in San Antonio, Texas at 210-490-3096 or the toll-free Environment Violation Hotline at 1-888-777-3186. Complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>. If the facility violates a term of the permit or TCEQ's regulations, the permittee may be subject to an enforcement action.

The Executive Director has reviewed the application and preliminarily determined that it satisfies the regulatory requirements regarding air quality.

V. Changes Made to the Draft Permit in Response to Comments

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

VI. Conclusion

The Executive Director has reviewed the application and determined that it meets the regulatory and statutory requirements.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel
Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Michael Martinez, Staff Attorney
Environmental Law Division
Michael.Martinez@tceq.texas.gov
State Bar of Texas No. 24137012
P.O. Box 13087, MC-173
Austin, Texas 78711- 3087
Phone: (512) 239-5771
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on June 18, 2024, the Executive Director's Response to Public Comment on the LSA Application by SouthWaste Disposal, LLC, for a MSW facility, Permit Number 2317, was filed with the TCEQ Office of the Chief Clerk.

A handwritten signature in dark ink that reads "Michael Martinez". The signature is written in a cursive style with a horizontal line underneath it.

Michael Martinez, Staff Attorney
Environmental Law Division
State Bar of Texas No. 24137012