

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by USA Waste of Texas Landfills, Inc. for major amendment to MSW Permit No. 2185 (Permit Application No. 2185A); TCEQ Docket No. 2023-0265-MSW.

On May 10, 2023, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration filed by numerous entities and individuals (Requesters) concerning the application by USA Waste of Texas Landfills, Inc. (Applicant) for a major amendment to MSW Permit No. 2185 (Permit Application No. 2185A). The major amendment seeks authorization to laterally and vertically expand the existing Type IV MSW landfill facility and change the name of the facility to Hawthorn Park Recycling and Disposal Facility. The Type IV MSW landfill is located at 10550 Tanner Road, Houston, Harris County, Texas. The hearing requests and requests for reconsideration were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the requests for hearing and reconsideration filed by the Executive Director, Office of Public Interest Counsel, and Applicant; the Requesters' replies; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that the following entities and individuals are affected persons under applicable law and their hearing requests should be granted: Dr. Victor Hebert; Gregory Hudson; Myra Wrenn Jefferson; Damien Lawson; Carverdale Civic Club; Hope, Healing, and Hooves, Inc.; Revitalize America Partnership, Inc.; Westwind Industries, LP; and Harris County. The Commission determined that the remaining hearing requests and all requests for reconsideration be denied.

The Commission next determined whether the requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by an affected person during the comment period, and which are relevant and material to the decision on the application. The Commission determined that the following issues met those requirements and directed that they be referred to the State Office of Administrative Hearings (SOAH) for contested case hearing:

- A) Whether the application and draft permit include adequate measures to prevent soil contamination in accordance with applicable TCEQ requirements;
- B) Whether the application and draft permit adequately address wetlands in accordance with applicable TCEQ requirements;
- C) Whether the application and draft permit propose adequate measures to prevent nuisance conditions, such as dust and odor in accordance with 30 Texas Administrative Code Sections 330.7(e)(9), 330.149, and 330.153(b);
- D) Whether the application and draft permit have demonstrated that the proposed landfill expansion will be protective of surface water and groundwater, and include adequate provisions for groundwater monitoring;
- E) Whether the proposed facility will adversely affect the health of the requesters or their families, animal life or vegetation, or the environment;
- F) Whether the application and draft permit include adequate measures to control on-site populations of disease vectors in accordance with 30 Texas Administrative Code Sections 330.3(175) and 330.151;
- G) Whether the application is complete and accurate;
- H) Whether the buffer zones comply with 30 Texas Administrative Code Section 330.543(b);
- I) Whether the application and draft permit meet the requirements for an unstable area as set forth in 30 Texas Administrative Code Section 330.559;

- J) Whether the Applicant's compliance history warrants denying or altering the terms of the draft permit;
- K) Whether the Applicant has substantially complied with all applicable notice requirements;
- L) Whether the landfill gas management plan meets applicable TCEQ requirements;
- M) Whether the landfill expansion is compatible with surrounding land use in accordance with applicable TCEQ requirements;
- N) Whether the application and draft permit propose adequate measures to control windblown waste in accordance with applicable TCEQ requirements;
- O) Whether the Applicant provided the required information on traffic and access roads necessary to meet requirements under 30 Texas Administrative Code Section 330.61(i);
- P) Whether the application and draft permit contain adequate measures to control and manage surface water drainage, and minimize run-on, runoff, and flooding in accordance with applicable TCEQ requirements;
- Q) Whether the application and draft permit contain adequate procedures to detect and prevent the disposal of prohibited waste, including hazardous waste, in accordance with applicable TCEQ requirements;
- R) Whether the application and draft permit adequately address the detection and prohibition of unauthorized wastes in accordance with applicable TCEQ requirements;
- S) Whether the application and draft permit adequately address the management of spilled waste materials along access roads and rights-of-way as required by 30 TAC Section 330.145;
- T) Whether the application contains an adequate subsurface investigation in accordance with applicable TCEQ requirements;
- U) Whether the application and draft permit adequately address relevant provisions of 30 Texas Administrative Code Chapter 330, Subchapter H, related to landfill liners;
- V) Whether the proposed operating hours for the facility are appropriate; and
- W) Whether the application and draft permit provisions for visual screening measures are sufficient for this facility.

Finally, the Commission specified that the maximum duration of the contested case hearing shall be 180 days from the date of the preliminary hearing until the proposal for decision is issued by SOAH.

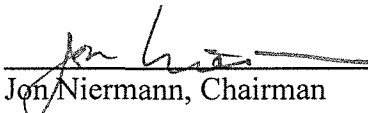
NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- 1) The hearing requests of Dr. Victor Hebert; Gregory Hudson; Myra Wrenn Jefferson; Damien Lawson; Carverdale Civic Club; Hope, Healing, and Hooves, Inc.; Revitalize America Partnership, Inc.; Westwind Industries, LP; and Harris County are hereby GRANTED;
- 2) The remaining requests for hearing and all requests for reconsideration are hereby DENIED;
- 3) The Chief Clerk shall REFER this matter to SOAH for a contested case hearing on the following issues:
 - A) Whether the application and draft permit include adequate measures to prevent soil contamination in accordance with applicable TCEQ requirements;
 - B) Whether the application and draft permit adequately address wetlands in accordance with applicable TCEQ requirements;
 - C) Whether the application and draft permit propose adequate measures to prevent nuisance conditions, such as dust and odor in accordance with 30 Texas Administrative Code Sections 330.7(e)(9), 330.149, and 330.153(b);
 - D) Whether the application and draft permit have demonstrated that the proposed landfill expansion will be protective of surface water and groundwater, and include adequate provisions for groundwater monitoring;
 - E) Whether the proposed facility will adversely affect the health of the requesters or their families, animal life or vegetation, or the environment;
 - F) Whether the application and draft permit include adequate measures to control on-site populations of disease vectors in accordance with 30 Texas Administrative Code Sections 330.3(175) and 330.151;
 - G) Whether the application is complete and accurate;
 - H) Whether the buffer zones comply with 30 Texas Administrative Code Section 330.543(b);
 - I) Whether the application and draft permit meet the requirements for an unstable area as set forth in 30 Texas Administrative Code Section 330.559;

- J) Whether the Applicant's compliance history warrants denying or altering the terms of the draft permit;
 - K) Whether the Applicant has substantially complied with all applicable notice requirements;
 - L) Whether the landfill gas management plan meets applicable TCEQ requirements;
 - M) Whether the landfill expansion is compatible with surrounding land use in accordance with applicable TCEQ requirements;
 - N) Whether the application and draft permit propose adequate measures to control windblown waste in accordance with applicable TCEQ requirements;
 - O) Whether the Applicant provided the required information on traffic and access roads necessary to meet requirements under 30 Texas Administrative Code Section 330.61(i);
 - P) Whether the application and draft permit contain adequate measures to control and manage surface water drainage, and minimize run-on, runoff, and flooding in accordance with applicable TCEQ requirements;
 - Q) Whether the application and draft permit contain adequate procedures to detect and prevent the disposal of prohibited waste, including hazardous waste, in accordance with applicable TCEQ requirements;
 - R) Whether the application and draft permit adequately address the detection and prohibition of unauthorized wastes in accordance with applicable TCEQ requirements;
 - S) Whether the application and draft permit adequately address the management of spilled waste materials along access roads and rights-of-way as required by 30 TAC Section 330.145;
 - T) Whether the application contains an adequate subsurface investigation in accordance with applicable TCEQ requirements;
 - U) Whether the application and draft permit adequately address relevant provisions of 30 Texas Administrative Code Chapter 330, Subchapter H, related to landfill liners;
 - V) Whether the proposed operating hours for the facility are appropriate; and
 - W) Whether the application and draft permit provisions for visual screening measures are sufficient for this facility.
- 4) The maximum duration of the hearing is set at 180 days from the date of the preliminary hearing until the date the proposal for decision is issued by SOAH; and

5) If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niermann, Chairman

5/15/23

Date Signed