

TCEQ PROPOSED PERMIT NO. 2324

APPLICATION BY	§	BEFORE THE
MONTGOMERY LANDFILL	§	TEXAS COMMISSION ON
SOLUTIONS, L.P.	§	ENVIRONMENTAL QUALITY

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**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS AND  
REQUESTS FOR RECONSIDERATION**

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**I. Introduction**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests and Requests for Reconsideration (Response) on the application of Montgomery Landfill Solutions, L.P. (Applicant) for Municipal Solid Waste (MSW) Permit Number 2324 (the Application).

Attached for Commission consideration are the following:

- Attachment A – Technical Summary and Draft Permit
- Attachment B – Executive Director's First Amended Response to Public Comment
- Attachment C – Compliance History
- Attachment D – GIS Map & Landowners List

The following people submitted an identical hearing request to the TCEQ's Office of the Chief Clerk, and will be known as **Group 1**:

Heather Adams	Kennith Bishoff
Lori Adams	Lea Ann Bishoff
Rodney Adkinson	Betty Blackman
Lewis Akin	Terry Blackman
Amy Ashby	Violet Blackman
Kevin Ashby	W. L. Blackman
Emileen Atkinson	Ann Blackmer
Richard Atkinson	Robert Blackmer
Willie Mae Atkinson	Karen and Tim Bradberry
Ebbie Bailey	Barry Brannon
Martha Barr	Sherry Brannon
Deborah Bell	Courtney Brennan
Jason Bellini	Tila Brooks
Kimberly Bellini	Charles Buzbee
Rosalie Bianco	Marie Buzbee

Laura Champagne  
Gary Chunn  
Penny Chunn  
Concerned Citizen #1  
Larry Wayne Collins  
James Crandle  
William Winwright Cribbs  
Troy Deaton  
David Deschner  
Frank Fanning  
Stephanie Ford  
Vanda Ford  
Skipper Fountain  
Steven Geisman  
Judith Gray  
Melinda Hall  
Sandy Hamilton  
Steve Hamilton  
Beverly Hammett  
Jerry Hammett  
Linda Hampton  
Kathleen Harrison  
Laurie Headings  
Sonja Henry  
Dallas Hiatt  
Barbara Huddleston  
Timothy Huston  
Bobbie Irwin  
Stanley Johnson  
Laura Jones  
Ross Jones  
Lorena Jungst  
John Kenney  
Marylin Kinney  
Henry Knight  
Sharon Labian  
Francine Lafield  
Brice Leverett  
Edward Lichnerowicz  
David Louder  
Christine Ludwig  
David Ludwig  
Charles Wade Lyle  
Jose Marquez  
Robert Martin  
James and Lori Mattox

Jeffery McCaffrey  
Melissa McCaffrey  
Ronald McCaffrey  
Don McCaslin  
Maggie McCaslin  
Meghan McCaslin  
Tricia McCaslin  
Barbara McLeane  
Esmeralda McLeane  
Matt McLeane  
Ned McLeane  
Michelle Miller  
Robert Miller  
Tommy Miller  
Lorrie Minix  
Christopher Morrill  
Crystal Morrill  
Milton Mueller  
Rhonda Nash  
David Neal  
Debbie Neal  
Casey Neely  
Glenda O'Farrell  
Judith O'Toole  
John Overall  
Jesse Prewitt  
Kelly Radmanovich  
Milorad Radmanovich  
Francisco Ramirez  
Lawrence and Carolyn Sue Rains  
Patricia Ream  
Robert Ream  
Charles Reed  
Kelly Reed  
David Rendon  
Terry Rollins  
Maria Ronberg  
Alexandra Ronngren  
Daniel and Mary Rosales  
Russel Schoonover  
R. Allen Selph  
R. T. Selph  
Vera Shafer  
Frances Sheppard  
Bob Singleton  
Sfc. James Singleton

Charley Smith  
Jaren Smith  
John Smith  
Leah Smith  
Richard Smith  
Herbert Somplasky  
Nikki Somplasky  
Kathryn Spore  
Linda Standley  
Nancy Steward  
Thomas Steward  
Bennett Stone  
David Tate  
Rhonda Tate  
Joyce Taylor  
Adriadna Natalia Teapila  
Billy Thompson  
Kenneth Thompson  
Todd Thompson  
Gordon Trott  
Kimberly Trott  
Jason Turner

Sandra Turner  
John Vickery  
Maria Vickery  
Margaret Wagner  
R. L. Walker  
R. W. Walker  
James Walkinshaw, Jr.  
Fahad Waqas  
James Watkins, Jr.  
Cliff Welch  
Deborah Welch  
Jimmie Welch  
John Welch  
Karen and Dale Welch  
Janet Westbrook  
Charlotte Williams  
James L. Williams  
James S. Williams  
Lacey Williams  
Herschel Wilson  
Jacqueline Woychesin  
Paul Zylman

The following people submitted an identical hearing request to the TCEQ's Office of the Chief Clerk, and will be known as **Group 2**:

Justin Abbot  
Roger Adams  
Ruth Allen  
Stephen Barfield  
Johnny Beall  
Karen Beall  
Dorthy Bell  
Jason Bellini  
Kimberly Bellini  
R. A. Benedict  
Ralph Benedict II  
Bonnie Braswell  
Charles Buzbee  
Marie Buzbee  
Dennis Cartwright  
Rosemary Cartwright  
James Clanton  
Floyd Collins  
Tina Collins  
Joshua Davis

Alberto Enriquez  
Anneliese Enriquez  
Belinda Faulkner  
Lisa Ford  
Terri Gandy  
Sherry Glaze  
Matt Glazewski  
Glenda Godejohn  
Maurice Godejohn  
Steven Gothard  
Mark Grimes  
Martha Guilbeaux  
Ronnie Guilbeaux  
Kenny Hamby  
Sheila Hardrick  
Prescilla Harris  
Deborah Heuermann  
Amber Hunt  
Jimmy Hunt  
Seth Jones

Crystal Kelsoe  
Eric Kelsoe  
Ed Kirkland  
Floralee Lovell  
James Lovell  
David Ludwig, Jr.  
Charles Lyle  
Mark Matheny  
Bob McDaniel  
Terri McDonald  
Carl and Linda McLeod  
Linda Middleton  
Luis Nava  
Albert Nelson  
Shelia Nelson  
Tara Olephant  
Weda O'Neil  
Linda Ott  
Sylvia Padilla  
Jack Potter  
Lisa Reasor  
Terry Rollins  
Delores Roost  
J. Sandles  
David Sargent, Jr.

Stephanie Simmons  
James Singleton  
Ciara Smalling  
Sherry Smalling  
John and Leah Smith  
Nikki Somplasky  
George Standley  
Linda Standley  
Ricky Standley  
Joseph Tanseu  
David Tate  
Rhonda Tate  
Jason Turner  
Ken Vandine  
Shawn Wallace  
Dan Wallaer  
Cynthia Watford  
Shawn Watford  
James Watkins  
Angela Welch  
Dale Welch  
Karen Welch  
Michael Wilkinson  
Esther Williams  
Julianne Young

The following people submitted an identical hearing request to the TCEQ's Office of the Chief Clerk, and will be known as **Group 3**:

Rachel Amacloe  
William Boles  
Bonita Booth  
Stephanie Brennan  
Tom Brennan  
Ernest and Marie Brown  
Doug Cockerham  
William Cockerham  
Amy Colvin  
Peggy Davis  
Norma Gibson  
Vernie Gibson  
James Harden  
Tommy Jensen  
Dalva Keener  
Stanley Lambery

Howard Launius  
Everette Lawson  
Barbara Mayeux  
Barbara McLeane  
Donald Myers  
Mrs. Don Myers  
Paul Simmons, Jr.  
Brandi Thoede  
Jessie Van Liew  
Jim Vaught  
Elanor van Tungeln  
Jim van Tunglen  
Craig Welch  
Sandy Welch  
Charlotte Williams



The following people submitted an identical hearing request to the TCEQ's Office of the Chief Clerk, and will be known as **Group 4**:

Richard Arnold	Donald Myers
Eric Bettis	Clara Riggins
Kayla Finley	Larry Riggins
James Frank	Carol Saxon
Vivian Hickman	Marla Todd
Tanya Hill	Elanor von Tunglen
Chrispen Johnson	James von Tunglen
Norma Lord	Mark Wiggins

The following people submitted an identical hearing request to the TCEQ's Office of the Chief Clerk, and will be known as **Group 5**:

Linda Collins	Albert and Shelia Nelson
Tina Collins	Billy Wagnon
Norma Gibson	Karen Welch

The following people submitted an identical hearing request to the TCEQ's Office of the Chief Clerk, and will be known as **Group 6**:

Daniel Heil	Jerri Heil
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Three petitions requesting a Contested Case Hearing were received by the TCEQ's Office of the Chief Clerk on May 28, 2004. The first of the three petitions contains the names and addresses of the following persons, and will be known as **Petition 1**:

Roy W. Abramson	Alicia Bentley
Misty Adams	Corallyn Berger
Richard J. Adams, Jr.	Stephanie Bigs
Lewis Akin	James R. Bingham
April Allen	Betty Blackman
Jeff Allman	Nicole Blake
Melanie Antiller	Amy Blanton
Carlos Arreola	Carrie Blanton
Raymond Atkinson	Taina Blanton
Richard Atkinson	Magnolia C. Boehm
Luis F. Azuara	Wayne Boehm
Melinda Bacon	Fran Bogert
Jimmy Bagley	Al Bolt
Clayton Bagwell	Kathie Boswell
Avery Ballard	Virginia Boswell
Cindy Jenkins Bayer	Joe Bowman
Dustin Beckham	Stephen Boyles
Glenn Bell	David & Shari Bracewell

Deborah Briggs  
Pat Brookshire  
Dennis Brown  
Dorothy M. Brown  
Frieda Brown  
Jack Brown  
Lee Brown  
Ken Burling  
Mark Cadwallader  
Robert E. Caldwell  
David Campbell  
Stephen Carle  
David Carr  
Tera Carrasco  
Hayle Casey  
R. Cash  
Carol Castanon  
Louis Castanon  
Jenise & Phil Cemino  
Brian Chaloupka  
Darrell Chaloupka  
Vallye W. Chandler  
Jo Chapman  
Ann Cheatham  
Rickie Childers  
Barbra Christiansen  
Jason Christiansen  
John Cisneros  
Pat & Paul Clark  
Billy & Myla Cobler  
Charles & Doris Coburn  
Christy Coburn  
William Coburn  
Becky Colebank  
Carl Comstock  
Connie Contreras  
Thomas L. Cook  
Scott Coshrey  
Teresa Coshrey  
James Couch  
Doug & Tamara Couey  
Bill Cruz  
Jesus Cruz  
Julie Culver  
Elvis & Pat d'Agrella  
Bruce Dailey

Karla Darden  
Robert Darden  
Ayha Darvey  
David Lynn Dauzart  
Terry Dauzart  
Argelio De Leon  
Esmeralda De Leon  
Mabry Dellyer  
David Dempsy  
Gail & R. Dewey  
Matt Dodd  
Deborah K. Doran  
Durwood Doss  
Durwood Doss, II  
L. V. Dowden  
Amy Downs  
James Doyal  
Leroy Dudley  
Tami Dudley  
Gregg Dunn  
L. E. Dunn, III  
Mary Edwards  
Wendy Ellis  
Kenneth Essman  
Karen Eudy  
Phil Eudy  
Shawna Everett  
Barry Fantes  
Tara Fay  
Kenita Fendley  
Cheryl Fincher  
Bobby Finley  
Brandon Ford  
Matthew & Tanci Foster  
Julia & Scott Frankenfield  
Rex Fry  
Jo Anne Galulman  
Esteban Garcia  
Juan Garcia  
Stacey Garee  
Gary & Jess Garner  
F. P. George  
Maureen M. Golden  
Cara Jo Gonzalez  
Kelly Gorrell  
Betty Grantham

Randy Gross  
Brittany Gullette  
Ken Hacker  
Denise Hall  
Justin Hambrick  
Debbie Hancock  
Bruce Hansen  
Mark Harrell  
Harry Harris  
Wynne Harris  
Tracey Marie Harrison  
Mary Hartt  
Rhonda Harvey  
Bryan Hayes  
Tammy Haywood  
Laurie & Ron Headings  
Brenda & Trey Hearn  
Joseph Hemby  
Carol Hennessy  
Kathy Hernandez  
Tony Herrin  
Lisa Hessler  
Jamie Higgins  
David Hinder  
Beverly Hinds  
J. L. Hodges  
Clorinda Hogan  
Dwayne & Pam Hood  
Chanhe Horton  
Claudia Hubbard  
Jeff Hunter  
Stacie Hunter  
Theresa Hymil  
Toni Inglet  
Rusty Ireland  
Don Johnson  
Jolene Johnson  
Marty & Rene Kay  
Mart Keltch  
Patty Keltch  
Bryan Kelley  
Morgan Kelley  
Devan Kendrick  
Sharon Kendrick  
Vincent Scott Kendrick  
Larry Kennedy

Kara Kern  
Jennifer Kirk  
Zachary C. Kirk  
Jennifer Knight  
Susan Koskoc  
Ruby Krautkremer  
John Kuke  
Tracey Kurtz  
Angela Kyle  
Tamara Lambdin  
Jim Lamendola  
D. LaRouche  
Kevin & Melanie Lawson  
Librado Leal  
Sherry LeBlanc  
Anita Lee  
Sandy Lehman  
Bright & Michael LeMaster  
Raymond Lewis  
Mark Lichman  
Charles Lightfoot  
Jill Limbaugh  
Phillip Lindsey  
Patricia Little  
John Long  
George R. Longmore  
Donald Loosier  
Jim Luton  
Stella Luton  
Brandi Lyons  
Susie & Thomas Machen  
Susie Machen  
Tommy Machen  
Brenda Mackey  
Mark Maddox  
Sharon Maddox  
Raileen Mangurn  
Kenneth Manzella  
Jennifer Martinez  
Mark Matheny  
Bobby & Patsy Matthews  
Susan Matthews  
Travis Mayeux  
Matt McCleane  
Wanda Laynette McCray  
Pattie McGee

April McHenry  
Michael McKay  
Cindy & Phillip McKenzie  
Ronny McKinnie  
Stephane McMillan  
Amy McMullen  
Trey Meador  
Matt Medford  
Aida Medinilla  
Albert Menard  
Linda Menard  
Josh Merimon  
Diana Merrell  
J. Miles  
S. Miller  
Kellie Montgomery  
Cindy & Terry Moon  
Tammy Moore  
Robert Morgan  
Bobby Morris  
Ella May Morris  
Michael Moris  
Vickie Morse  
William Mozingo  
Alisa Murphy  
Susan Murrell  
Kevin Myers  
Mark Nalty  
Tiffany Neal  
Albert Nelson  
Shelia Nelson  
Deborah Noble  
George D. Noble  
Paula Noble  
Ranee Nolern  
Dianne Nuget  
Doris O'Dell  
Dennis O'Malley  
Mary O'Malley  
Matt O'Malley  
Marigrace O'Neil  
Debbie Orsack  
John & Pattie Ortega  
Judith O'Toole  
Melinda Parker  
Michael W. Parker

Betty Parmer  
George Parmer  
Avery Patterson  
Mariann Patterson  
Melanie Perdue  
William Petty, Jr.  
Linda Phillips  
Janie Piccis  
Susan Pine  
Darrel Pinksion  
Eric Powell  
Michelle Pule  
William C. Quimm  
Geraldo Ramirez  
Diana Real  
Robby Real  
David Rendon  
Link Reneau  
Mary Rich  
Ermajean Ritter  
Judy Robertson  
Scotty Robinson  
Jim Rogganbock  
Johnny Rothe  
S. W. Rutherford  
Cynthia Sam  
Lamont Sam  
David Sams  
Brandon Sanders  
Maruea Sangstear  
Sparky A. Santana  
Brenda Schank  
Robert Scharee  
Kenneth Schelsteder  
Mr. & Mrs. Schulmire  
Gordon Sealy  
Jerri Sealy  
Vinson Sealy  
Judi Self  
R. F. Shannon  
Cyndi Simmons  
Lee Simmons  
Tracy Simonsen  
John Small  
Cassie Smith  
Jerrie Smith

John & Leah Smith  
Nikki Somplasky  
Jan & Ron Stallworth  
Linda Standley  
Nick Steele  
Bart Steen  
Linda Stegenga  
Analeisa Stern  
Jeff Stern  
Connie Stipanic  
Bryan Stuart  
Colette Talbert  
George Tambourides  
David Tate  
Rhonda Tate  
H. W. Taylor  
Joyce Taylor  
Claude A. Teal  
Debra Teekamp  
Floyd Temple  
Debbie Thiel  
Amy Thomas  
Hailey Thomas  
Michael Thomas  
Pat Thomas  
Tracie Thomas  
Janice Thomason  
Scott Thompson  
Sheri Thompson  
Jack S. Torrence  
Marcia Townsend  
Debra Trammel  
H. Eugene Trammel  
Josh Travesse  
Ross Travesse  
Ross Tuff  
Stan Tully  
Amanda Middel-Urby  
Cabrilla Valdes  
Dee Van  
Barb & Dick Van Liew  
Max Vickers

P. H. Bickey  
Faustino D. Villarreal  
Yvonne P. Villarreal  
Jim von Tungeln  
Ashlea Vyoral  
Doug Vyoral  
Rachel Walker  
Tammy Walker  
Bobby L. Walters  
Debra Walters  
Loni Walton  
Danny & Donna Warner  
Beckie Warren  
Paula Warren  
Shannon Warren  
Sue Wayford  
Donna Weaver  
Randall Weaver  
Jordan Wedgewood  
Dale Welch  
Karen Welch  
Heath Wells  
Jody Westra  
Marie Whiddon  
Judy Whitten  
Joe K. Williams  
David E. Wilson  
Diane A. Wilson  
Jacqueline Woychesin  
Ricky Woychesin  
Kristin Wright  
Charles W. Yawn  
Sercy Yawn  
Banica Young  
Bubba Young  
Lila Young  
Racheal Young  
Ray Young  
Richard Young  
Karen Zeller  
Paul Zylman  
26 Concerned Citizens

The second of the three petitions contains the names and addresses of the following persons, and will be known as **Petition 2:**

Kathleen M. Adams  
Richard J. Adams, Jr.  
Wesley T. Adkins  
Kathy Armstrong  
Raymond Atkinson  
Richard Atkinson  
Rodney Atkinson  
Luis Azuara  
Judy Banks  
Elizabeth Barbosa  
Melissa & Rick Barton  
Corallyn Berger  
Magnolia & Wayne Boehm  
Ernest & Marie Brown  
Jenise & Phillip Cemino  
Paul Clark  
Floyd Collins  
Linda Collins  
Lee Compton  
Doug & Tami Couey  
Sam Croce  
Diana Crowson  
William Crowson  
David & Karen Deschmer  
Mark & Monica Direnna  
Sonny Donaldson  
Deborah K. Doran  
Leroy Dudley  
Jerry Evans  
Richard W. Fendley  
Barbara Gandy  
Robert Gandy  
Sidney Gaylord  
Betty Gregg  
Fred Gregg  
Suzanne Hansen  
Dewana & Jamie Higgins  
Rusty Ireland  
Eugene & Tina Jackson  
George Johnson  
Dorene Jones  
Randy Kitchen  
Librado Leal  
Joe Leggett  
Patti Little

Susie & Thomas Machen  
Terry Mann  
Bobby L., Jr., & Patsy Matthews  
Betty & Louis McGuire  
Jeff L. McKinney  
Dennis McNabb  
David C. McQueen  
Destiny & Tom Miller  
Arguimiro Molina  
Bryan & Lisa Neal  
Glyn O'Briant  
Monica Ogilvie  
Marigrace O'Neal  
Trudilee O'Neal  
Gladys Perez  
Linda & Robert Phillips  
Billy & Deborah Pickering  
Jessica & Larry Rancher  
Danielle & Paul Reich  
David Rendon  
Agnes & Eddie Rogers  
Alan Schuler  
Gordon & Jerri Sealy  
Melvin Sharpe  
Brad & Michele Shrieve  
Arlinda & Billy Smith  
Cassie & James Smith  
Leah Smith  
Linda Smith  
Donnie & Rebecca Sutton  
Maxey Tharp  
Barb Van Liew  
Daniel Vargas  
Candice Villarreal  
Chris Walker  
John & Vicki Warner  
G. W. Wayman  
Jimmy Weeks  
Dale Welch  
John Welch  
Karen Welch  
Clifford D. Welsh  
Joe K. Williams  
James Woodall

The third and final petition contains the names and addresses of the following persons, and will be known as **Petition 3**:

Juan and Leticia Aguilar	Roxanna Hudson
Daniel Barnett	Lee and Tina Leal
Sharon Barnett	William Maddox
Rogelio Baroenus	Amanda McShan
Samantha Baumgarten	Kenneth R. Meuth
Lety and Mike Bieniek	Kimberly Oneal
C. B. Boudreaux	Marvin Orsack
Rachel Bratcher	Brian Peterman
Janine Bryant	Lance Pigott, Jr.
Jon Buckholtz	Lupita Miles Pigott
Tracy Cadengo	Fay Pilkington
Billy Collier	Gregoria Ramirez
Jason Cowart	Raquel Ramirez
Pat Crowley	Tomas Ramirez
Mary Ann Daniels	Charles E. Richmond
Judy C. Dehart	Diana Richmond
J. R. De Leon	Earlene Santo
Marde De Leon	John & Leah Smith
Sunnie De Leon	Justin A. Theriot
Janice & Pat Ferrer	Keith A. Theriot
Rick Finery	Paul Vyoral
Homer Galicia	Johnny Walker
Rachel Giblin	Shannon Winton
Leah Gonzales	Michael Wolf
Jack Grant	Dalton Woolery
Frank Harris, Jr.	Patty Zarate
Maggie Harris	3 Concerned Citizens
J. O. Hudson	

The following people submitted hearing requests on behalf of **Citizens Against Montgomery Landfill (CAML)**:

Mary Carter	David Tate
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The following people submitted hearing requests on behalf of **Montgomery County, Texas**:

Hon. Ed Rinehart, Montgomery County Commissioner Pct. No. 4	The Hon. Alan B. Sadler, Montgomery County Judge
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The following people submitted individual hearing requests:

Willie Mae Atkinson	Denise Bell
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Karen Bradberry  
Lennice Cargill, on behalf of  
Keystone Natural Resources  
Doug Crofton  
Leon Cubillas  
Jim Dawson  
Rev. Duane Hamilton  
Sandy Hamilton  
Hon. Ruben Hope, Jr., State  
Representative District 16  
Judith Horne  
Thornton Ireland  
Devin Kaatz  
Normane Kaatz  
Ernest Kannak, Jr.  
Mary Lou Kirves  
Wayne Kocurer  
Christine Ludwig  
Susana Magaña  
Nonnie Maffet  
Ronald Maffet  
Steven Matthews  
Barbara Mayeux  
Travis Mayeux  
Barbara McLeane  
Carol Parten  
R. M. Palmer, on behalf of  
International Paper, Realty

Division (International  
Paper)  
Greg Poole  
Lawrence and Carolyn Sue Rains  
Louis Reiszner  
Carla Robles  
Pedro Rosales, Jr.  
Lynda and Bob Sasser  
Anita Severa  
Melvin Sharpe  
Cassie Smith  
John Smith  
Leah Smith  
Robert Smith  
Linda Standley  
David Stegenga  
Linda Stegenga  
Nancy Steward  
Thomas Steward  
John Tate  
Rhonda Tate  
Debra Teekamp  
Daniel Vargas  
Dino Villareal  
James Walkinshaw  
Karen Welch  
Sabrina Westerfeld  
Charlotte Williams  
Paul Zylman

The following people submitted requests for reconsideration to the TCEQ's Office of the Chief Clerk:

Deborah Doran  
Thornton Ireland

Barbara Mayeux  
Linda Standley

## II. Description of the Facility

The Applicant has applied to the TCEQ for a new permit that would authorize the construction and operation of a new Type IV municipal solid waste landfill in Montgomery County, Texas. The proposed landfill would primarily serve the construction and demolition needs of Montgomery County, but may also serve the surrounding counties. The total permitted facility will include 473.0 acres of land of which approximately 207.1 acres will be used for waste disposal. The final elevation of the waste fill and soil cover material will be 408.29 feet above mean sea level. The waste acceptance rate is expected to average approximately 3,000 tons per day.



If the Commission issues the draft permit, the site will be authorized to accept municipal solid waste resulting from, or incidental to, construction, demolition and grounds keeping activities, including brush, construction and demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free from putrescible and household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer or recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director. The site is not able to accept those waste streams that are expressly prohibited by 30 TAC Chapter 330, including but not limited to hazardous waste, Class 1 non-hazardous industrial waste, Class 2 non-hazardous industrial waste, Class 3 non-hazardous industrial waste, regulated radioactive waste, waste containing regulated polychlorinated biphenyls, putrescible waste, household waste, liquid waste, water and wastewater treatment sludge, grease or grit trap wastes, special wastes, and waste material that may cause odor or nuisance or that may require excessive or special on-site procedures and handling requirements.

If the Commission issues the draft permit, the facility will be located at 3761 North Walker Road, approximately 1.4 miles north of the intersection of North Walker Road and SH 105, abutting the west side of North Walker Road. The location is outside any city limits. The land within one mile of the proposed facility is 60% undeveloped or agricultural, 39% residential with some agricultural use, and 1% industrial. The structures that are within one mile of the facility are primarily homes and some structures incidental to agricultural uses. There are approximately 780 people that reside within one mile of the proposed facility, with nine structures and habitable buildings within 500 feet of the permit boundary. The nearest structure is approximately 75 feet east of the permit boundary and about 1,150 feet east of the waste cell.

### **III. Procedural Background**

The application was received on March 17, 2004, and declared administratively complete on April 4, 2004. Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit (NORI) was published on April 21, 2004 in the *Conroe Courier*. Notice of Public Meeting was published on July 19, 26, and August 2, 2004 in the *Conroe Courier*, and a public meeting was held in Conroe, Texas on August 9, 2004. The Executive Director completed the technical review of the application on October 21, 2004, and prepared a draft permit. Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit (NAPD) was published on November 25, 2004. Notice of Public Meeting was published on February 17, 24, and March 3, 2005 in the *Conroe Courier* and the *Houston Chronicle*, and a second public meeting was held in Conroe, Texas on March 10, 2005. The Executive Director prepared his original Response to Public Comment, and filed it with the TCEQ's Office of the Chief Clerk on July 6, 2006. In July of 2006, the Applicant asked the TCEQ to suspend its processing of the application while amendments to the application and facility layout were considered.

On November 10, 2006, the Executive Director received an amended application for review. The Executive Director completed the technical review of the amended application on September 7, 2007, and a second NAPD was published on December 21, 2007 in English in the *Conroe Courier* and *Houston Chronicle*, and in the Spanish language newspaper of general circulation in Montgomery County, *El Sol*. Notice of Public Meeting was published on March 20, 27, and April 3, 2008 in the *Conroe Courier* and the *Houston Chronicle*, and a third public meeting was held on April 10, 2008 in Conroe, Texas. The comment period for this application closed on April 11, 2008. In response to traffic concerns raised during the public comment period, the Applicant submitted additional changes to the amended application on August 21, 2008 revising the entry path to the proposed facility. This design change required additional technical review. The Executive Director prepared his First Amended Response to Public Comment, and filed it with the TCEQ's Office of the Chief Clerk on February 13, 2009. The Executive Director's Final Decision Letter was mailed February 26, 2009, and the period for timely filing a Request for Reconsideration or Contested Case Hearing Request ended on March 30, 2009. The review of this permit application has gone well beyond the typical time frame allotted due to the extension of the public comment period to allow for additional public meetings, the submission and subsequent technical review of the amended permit application, additional technical review after the submission of modifications to the amended application, and responding to extensive public comment. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76<sup>th</sup> Legislature, 1999).

#### **IV. Access to Rules, Laws, and Records**

The Commission's current rules may be accessed online by using the Texas Administrative Code (TAC) viewer feature on the Texas Secretary of State website at: [www.sos.state.tx.us](http://www.sos.state.tx.us) (Select "State Rules & Open Meetings," then "Texas Administrative Code," and then "TAC Viewer").

30 TAC Chapter 330, Municipal Solid Waste, was amended by the TCEQ, effective March 27, 2006.<sup>1</sup> Since the application was declared administratively complete on April 4, 2004, it was reviewed in accordance with 30 TAC Chapter 330 prior to the 2006 amendments. The archived rules are available through the TCEQ's website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (Select "Rules," then "Municipal Solid Waste Chapter 330 Rules prior to March 27, 2006")

Texas statutes may be accessed through the Texas Legislative Council's website at: <http://www.tlc.state.tx.us> (Select "Internet Resources," then "Texas Statutes").

General information about the TCEQ can be found at our website at: [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (For downloadable rules in Adobe PDF format, select "Rules," then "Current TCEQ Rules," then "Download TCEQ Rules")

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<sup>1</sup> See 31 Tex. Reg. 2502 (March 24, 2006).

Federal statutes and regulations may be accessed through the Environmental Protection Agency (EPA) website at: [www.epa.gov](http://www.epa.gov) (Select "Laws & Regulations").

Commission records for this facility are currently available for review and copying during regular business hours at the TCEQ's Office of the Chief Clerk, Building F, 12100 Park 35 Circle, Austin, TX. 78753. A copy of the amended application and draft permit are currently available for review and copying at the Montgomery County Library in Conroe, Texas; and will remain there until either the TCEQ acts on the application, or the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.

### **V. The Evaluation Process for Hearing Requests**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The applications were declared administratively complete on September 18, 2007; therefore, they are subject to House Bill 801 requirements. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55.

#### **A. Response to Request**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requestor is an affected person;
- 2) whether issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;
- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

#### **B. Hearing Request Requirements**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

“A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided...and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director’s Response to Comment.”

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- 1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible fax number, who shall be responsible for receiving all official communications and documents for the group;
- 2) identify the person’s personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor’s location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a matter not common to members of the general public;
- 3) request a contested case hearing;
- 4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission’s determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director’s response to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- 5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

### C. “Affected Person” Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an “affected person.” Section 55.203 sets out who may be considered an affected person.

- a) For any application, 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. An interest common to members of the general public does not qualify as a personal justiciable interest.

- b) Governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - 1) whether the interest claimed is one protected by the law under which the application will be considered;
  - 2) distance restrictions or other limitations imposed by law on the affected interest;
  - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - 5) likely impact of the regulated activity on the use of the impacted natural resource by the person; and
  - 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

#### **D. Additional Requirements if Requestor is a Group or Association**

A group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- 1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- 2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- 3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205.

#### **E. Referral to the State Office of Administrative Hearings (SOAH)**

When the Commission grants a request for a contested case hearing, they are required to issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing. 30 TAC § 50.115(b). Subsection 50.115(c) of 30 TAC sets out the test for determining whether an issue may be referred to SOAH. "The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: 1) involves a disputed question of fact; 2) was raised during the public comment period; and 3) is relevant and material to the decision on the application." 30 TAC § 50.115(c).

### **VI. Analysis of the Requests**

## A. Analysis of the Hearing Requests

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, who qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

### 1. Whether the Requestors Complied with 30 TAC § 55.201

#### a) Group 1

The deadline for filing a Contested Case Hearing Request regarding this application was March 30, 2009. With the exception of the hearing request filed by Mr. Frank Fanning, all of Group 1's written hearing requests were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. Mr. Fanning's hearing request was filed with the TCEQ's Office of the Chief Clerk on April 2, 2009 at 2:45 p.m. As such, his request is untimely and does not substantially comply with the requirements set forth in 30 TAC § 55.201(c). With the exception of the hearing request filed by Concerned Citizen #1, each of Group 1's hearing requests provided the requestor's name and address, identified their personal justiciable interest affected by the application, contained an explanation of the requestor's location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period. The hearing request filed by Concerned Citizen #1 failed to provide the requestor's name, and therefore does not substantially comply with 50.201(d)(1).

The Executive Director recommends that the Commission find that Frank Fanning's hearing request does not comply with 30 TAC § 55.201(c). The Executive Director also recommends that the Commission find that Concerned Citizen #1's hearing request does not substantially comply with 30 TAC § 55.201(d)(1). Finally, the Executive Director recommends that the Commission find that Group 1's remaining hearing requests substantially complied with the requirements of 30 TAC §§ 55.201(c) and (d).

#### b.) Group 2

All of Group 2's written hearing requests were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline to request a Contested Case Hearing, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. Each of Group 2's hearing requests provided the requestors' names and addresses, identified their personal justiciable interest affected by the application, contained an explanation of the requestors' location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Group 2's hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

c.) Group 3

All of Group 3's written hearing requests were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline to request a Contested Case Hearing, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. With the exception of the hearing requests filed by Helen Barge, William Cockerham and Everette Lawson, all of Group 3's hearing requests provided the requestors' names and addresses, identified their personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period. Ms. Barge, Mr. Cockerham and Mr. Lawson provided P.O. Box numbers in lieu of their physical address or any description of their location and distance relative to the proposed facility.

The Executive Director recommends that the Commission find that Helen Barge, William Cockerham, and Everette Lawson's hearing requests do not substantially comply with 30 TAC § 55.201(d)(2). The Executive Director recommends that the Commission find that Group 3's remaining hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

d.) Group 4

All of Group 4's written hearing requests were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline to request a Contested Case Hearing, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. All of Group 4's hearing requests provided the requestors' names and addresses, identified their personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Group 4's hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

e.) Group 5

All of Group 5's written hearing requests were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline to request a Contested Case Hearing, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. All of Group 5's hearing requests provided the requestors' names and addresses, identified their personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Group 5's hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

f.) Group 6

Both of Group 6's written hearing requests were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline to request a Contested Case Hearing, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. Both of Group 6's hearing requests provided the requestors' names and addresses, identified their personal justiciable interest affected by the application, contained an explanation of the requestors' location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Group 6's hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

g.) Petitions 1, 2, and 3

Petitions 1, 2, and 3 were filed with the TCEQ's Office of the Chief Clerk before the March 30, 2009 deadline to request a Contested Case Hearing, and were not based on issues raised during the public comment period that had been withdrawn prior to the filing of the Executive Director's RTC. However, Petitions 1, 2, and 3 failed to identify individual requestors' personal justiciable interest affected by the application or why each requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public.

The Executive Director recommends that the Commission find that Petitions 1, 2, and 3 failed to substantially comply with the requirements of 30 TAC § 55.201(d)(2).

h.) Citizens Against Montgomery Landfill (CAML)

Mary Carter, of Blackburn & Carter, P.C., filed four separate timely hearing requests with the TCEQ's Office of the Chief Clerk; one on behalf of CAML, Inc. and three on behalf of CAML (the same group or association which continued to operate after the dissolution of the corporation). David Tate, President of CAML, Inc., also filed two timely hearing requests with the TCEQ's Office of the Chief Clerk; one on behalf of CAML, Inc. and one on behalf of CAML. CAML's hearing requests provided the requestors' names and addresses, identified one person responsible for receiving all official communications and documents for the group, contained an explanation of certain members' location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.



The Executive Director recommends that the Commission find that CAML's hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

i.) Montgomery County, Texas

The Hon. Ed Rinehart, Montgomery County Commissioner Pct. No. 4, filed two timely hearing requests on behalf of Montgomery County. The Hon. Alan B. Sadler, Montgomery County Judge, filed three timely hearing requests on behalf of Montgomery County. The hearing requests filed provided the requestors' names and addresses, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Montgomery County, Texas substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

j.) Individual Requestors

1. Willie Mae Atkinson

Ms. Atkinson's timely filed written hearing request raised general concerns regarding traffic, water quality, and road conditions. Ms. Atkinson failed to identify her personal justiciable interest affected by the application, or how she would be adversely affected by the proposed facility or activity in a manner not common to the general public.

The Executive Director recommends that the Commission find that Willie Mae Atkinson's individual hearing request fails to substantially comply with 30 TAC § 55.201(d)(2). If additional information demonstrating that Ms. Atkinson has a personal justiciable interest affected by the application is timely furnished, the Executive Director may reconsider his recommendation.

2. Denise Bell

Ms. Bell's timely filed written hearing request raised the issues of air quality, traffic, flooding, groundwater protection, and potential future expansions of the proposed facility. The issue of future expansions was raised and addressed in Response Number 10 of the Executive Director's First Amended RTC. TCEQ rules allow a permittee to expand a landfill through the permit amendment process. *See* 30 TAC § 305.62. This issue is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Bell's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Denise Bell's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

3. Karen Bradberry

Ms. Bradberry's timely filed written hearing request raised the issues of groundwater quality and traffic. Ms. Bradberry's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Ken Bradberry's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

4. Lennice Cargill, on behalf of Keystone Natural Resources

Ms. Cargill's timely filed written hearing request deals solely with the mineral rights at the four corners of the property where the facility is to be located. The issue of mineral rights was raised and addressed in Response Number 38 of the Executive Director's First Amended RTC. The TCEQ does not have jurisdiction from the legislature to regulate mineral rights. As such, the issue of mineral rights is not relevant and material to the TCEQ's decision on this permit application.

The Executive Director recommends that the Commission find that Lennice Cargill's individual hearing request fails to substantially comply with the requirements of 30 TAC § 55.201(d)(4).

5. Doug Crofton

Mr. Crofton's timely filed written hearing request raised the issues of potential adverse impacts on property values and the monitoring of incoming waste. The issue of adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. However, with respect to the issue of the monitoring of incoming waste, Mr. Crofton's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed a relevant and material disputed issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that Doug Crofton's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

6. Leon Cubillas

Mr. Cubillas' timely filed written hearing request raised the issues of traffic and land use compatibility. Based on the content of his request, it does not appear that Mr. Cubillas is requesting a hearing on behalf of either Splendora Independent School District or East Montgomery County Improvement District. Mr. Cubillas failed to identify his personal justiciable interest affected by the application, or how he would be adversely affected by the proposed facility or activity in a manner not common to the general public.

The Executive Director recommends that the Commission find that Leon Cubillas' individual hearing request fails to substantially comply with 30 TAC § 55.201(d)(2). If additional information demonstrating that Mr. Cubillas has a personal justiciable interest affected by the application is timely furnished, the Executive Director may reconsider his recommendation.

7. Jim Dawson

Mr. Dawson's timely filed written hearing request raised the issues of traffic, opposition from state and local government officials, and wetlands protection. Mr. Dawson's request also asks that "the TCEQ Executive Director request a direct referral for a contested case hearing." The Executive Director has declined to direct refer this matter. The issue of opposition from state and local government officials was raised and addressed in Response Number 4 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Mr. Dawson's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Jim Dawson's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

8. Rev. Duane Hamilton

Rev. Hamilton's timely filed written hearing request raised the issues of groundwater protection, traffic, flooding, and land use compatibility. Rev. Hamilton's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Rev. Duane Hamilton's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

9. Sandy Hamilton

Ms. Hamilton's timely filed written hearing request raised the issues of air quality, water quality, adverse impacts on property values, and traffic. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Hamilton's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period:

The Executive Director recommends that the Commission find that Sandy Hamilton's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

10. Hon. Ruben Hope, Jr., State Representative District 16

Representative Hope's timely filed written hearing request raised concerns about drainage, flooding, groundwater quality, and traffic. The Executive Director assumes that Representative Hope has requested a contested case hearing on behalf of his constituents. The Executive Director recommends that the Commissioners refer this matter to SOAH for a Contested Case Hearing. However, if Representative Hope seeks to participate in this matter individually, his hearing request was on fails to identify his personal justiciable interest affected by the application, or how he would be adversely affected by the proposed facility or activity in a manner not common to the general public.

The Executive Director recommends that the Commission find that Representative Hope's individual hearing request fails to substantially comply with 30 TAC § 55.201(d)(2). If additional information demonstrating that Representative Hope has a personal justiciable interest affected by the application is timely furnished, the Executive Director may reconsider his recommendation.

11: Judith Horne

Ms. Horne's timely filed written hearing request raised the issues of water quality, adverse impact on property values, and the adequacy of the August 9, 2004 public meeting. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Horne's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Judith Horne's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

12. Thornton Ireland

Mr. Ireland's timely filed written hearing request raised the issues of dust control, groundwater protection, and traffic. Mr. Ireland's hearing request included his name and address, identified his personal justiciable interest affected by the application, contained an explanation of his location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Thornton Ireland's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

13. Devin Kaatz

Mr. Kaatz's timely filed written hearing request deals solely with landfill clustering. This issue was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC. This concern is more appropriately addressed to the local council of governments during the development or revision of a regional solid waste management plan. As such, the issue of landfill clustering is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission find that Devin Kaatz's individual hearing request fails to substantially comply with the requirements of 30 TAC § 55.201(d)(4).

14. Normane Kaatz

Ms. Kaatz's timely filed written hearing request raised general concerns regarding the location of the landfill. Ms. Kaatz failed to identify her personal justiciable interest affected by the application, or how she would be adversely affected by the proposed facility or activity in a manner not common to the general public.

The Executive Director recommends that the Commission find that Normane Kaatz's individual hearing request fails to substantially comply with 30 TAC § 55.201(d)(2). If additional information demonstrating that Ms. Kaatz has a personal justiciable interest affected by the application is timely furnished, the Executive Director may reconsider his recommendation.

15. Ernest Kannak, Jr.

Mr. Kannak's timely filed written hearing request raised the issues of whether the application accurately depicts the floodplain, odor, and financial assurance. Mr. Kannak's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Ernest Kannak, Jr.'s individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

16. Mary Lou Kirves

Ms. Kirves' timely filed written hearing request raised the issues of potential adverse impacts on property values, groundwater quality, and traffic. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Kirves' hearing request included her name and address, identified her personal justiciable interest affected by the application, contained an explanation of her property's location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Mary Lou Kirves' individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

17. Wayne Kocurer

Mr. Kocurer's timely filed written hearing request raised the issues of groundwater protection, odor, flooding, traffic, and future amendments to the permit. The issue of future amendments to the permit was raised and addressed in Response Number 10 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Mr. Kocurer's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Wayne Kocurer's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

18. Christine Ludwig

Ms. Ludwig's timely filed written hearing request raised the issues of flooding, groundwater protection, and traffic. Ms. Ludwig's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Christine Ludwig's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

19. Susana Magaña

Ms. Magaña's hearing request expressed her general opposition to the proposed facility, and did not list any relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Susana Magaña's hearing request failed to substantially comply with the requirements of 30 TAC § 55.201(d)(4).

20. Nonnie Maffet

Ms. Maffet's timely filed written hearing request raised the issues of air quality, water quality, potential adverse impacts to property values, traffic, and an alternative site location for the proposed facility. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. The issue of an alternative location for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Maffet's hearing request included her name and address, identified her personal justiciable interest affected by the application, contained an explanation of her location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Nonnie Maffet's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

21. Ronald Maffet

Mr. Maffet's timely filed written hearing request raised the issues of air quality, water quality, potential adverse impacts to property values, traffic, and an alternative site location for the proposed facility. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's

First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. The issue of an alternative location for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Mr. Maffet's hearing request included his name and address, identified his personal justiciable interest affected by the application, contained an explanation of his location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Ronald Maffet's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

22. Steven Matthews

Mr. Matthews' timely filed written hearing request raised the issues of traffic and an alternative site location for the proposed facility. The issue of an alternative location for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Mr. Matthews' hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Steven Matthews' individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

23. Barbara Mayeux

Ms. Mayeux's timely filed written hearing request raised the issues of an alternative site location for the proposed facility, groundwater protection, and traffic. The issue of an alternative location for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Mayeux's hearing request included her name and address, identified her personal justiciable interest affected by the application, contained an explanation of her location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Barbara Mayeux's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).



24. Travis Mayeux

Mr. Mayeux's timely filed written hearing request raised the issues of groundwater protection, traffic, and flooding. Mr. Mayeux's hearing request included his name and address, identified his personal justiciable interest affected by the application, contained an explanation of his location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Travis Mayeux's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

25. Barbara McLeane

Ms. McLeane's timely filed written hearing request raised the issues of groundwater protection and traffic. Ms. McLeane's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Barbara McCleane's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

26. Carol Parten

Ms. Parten's timely filed written hearing request raised the issues of air quality and groundwater protection. Ms. Parten's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Carol Parten's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

27. R. M. Palmer, on behalf of International Paper, Realty Division (International Paper)

Mr. Palmer's timely filed written hearing requests raised the issues of financial assurance, potential adverse impacts on property values, traffic, future permit amendments, and water quality. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this

permit application. The issue of future amendments to the permit was raised and addressed in Response Number 10 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to traffic, Mr. Palmer's hearing requests included his name and address, identified his personal justiciable interest affected by the application, contained an explanation of his location and distance relative to the proposed facility, requested a contested case hearing, and listed a relevant and material disputed issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that International Paper's individual hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

28. Greg Poole

Mr. Poole's timely filed written hearing requests raised the issue of the adequacy of the August 9, 2004 public meeting. Mr. Poole's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Greg Poole's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

29. Lawrence and Carolyn Sue Rains

Mr. and Mrs. Rains timely filed written hearing request raised the issues of flooding and traffic. Mr. and Mrs. Rains' hearing request included their names and address, identified their personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Lawrence and Carolyn Sue Rains' individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

30. Louis Reiszner

Mr. Reiszner's timely filed written hearing request raised the issue of the adequacy of the August 9, 2004 public meeting. Mr. Reiszner's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Louis Reiszner's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

31. Carla Robles

Ms. Robles' timely filed written hearing request raised the issues of flooding, air quality, fire protection, and wildlife and migratory bird protection. Ms. Robles' hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Carla Robles' individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

32. Pedro Rosales, Jr.

Mr. Rosales' timely filed written hearing request raised the issues of water quality, air quality, the maintenance of site access roads, and traffic. Mr. Rosales' hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Pedro Rosales, Jr.'s individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

33. Lynda and Bob Sasser

Mr. and Mrs. Sasser's timely filed written hearing request raised the issues of traffic, air quality, and water quality. Mr. and Mrs. Sasser's hearing request included their names and address, identified their personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Lynda and Bob Sasser's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

34. Anita Severa

Mr. Severa's timely filed written hearing request raised the issues of the monitoring of incoming waste, traffic, water quality, illegal dumping, and flooding. Ms. Severa's hearing request included her name and address, her personal justiciable interest

affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Anita Severa's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

35. Melvin Sharpe

Mr. Sharpe's timely filed written hearing request raised the issue of flooding. Mr. Sharpe's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Melvin Sharpe's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

36. Cassie Smith

Ms. Smith's timely filed written hearing request raised the issues of flooding, water quality, traffic, and potential adverse impacts on property values. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Smith's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Cassie Smith's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

37. John Smith

John Smith's timely filed written hearing request raised the issue of traffic. Mr. Smith's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed a relevant and material issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that John Smith's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

38. Leah Smith

Leah Smith's timely filed written hearing requests raised the issues of groundwater protection, control of contaminated water, flooding, mineral rights, and traffic. The issue of mineral rights was raised and addressed in Response Number 38 of the Executive Director's First Amended RTC. The TCEQ does not have jurisdiction from the legislature to regulate mineral rights. As such, the issue of mineral rights is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Smith's hearing request included her name and address, identified her personal justiciable interest affected by the application, requested a contested case hearing, and listed a relevant and material issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that Leah Smith's individual hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

39. Robert Smith

Mr. Smith's timely filed written hearing request raised the issue of traffic. Mr. Smith's hearing request included his name and address, identified his personal justiciable interest affected by the application, requested a contested case hearing, and listed a relevant and material issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that Robert Smith's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

40. Linda Standley

Ms. Standley's timely filed written hearing request raised the issues of future amendments to the permit, traffic, flooding, groundwater protection, odor, air quality, maintenance of site access roads, vector control, and whether the Application properly identifies the 100-year floodplain. The issue of future amendments to the permit was raised and addressed in Response Number 10 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Standley's hearing request included her name and address, identified her personal justiciable interest affected by the application, contained an explanation of her location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Linda Standley's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

41. David Stegenga

Mr. Stegenga's timely filed written hearing requests raised the issues of air quality, groundwater protection, the adequacy of the proposed groundwater monitoring system, flooding, wetlands, control of contaminated water, adequacy of the August 9, 2004 public meeting, water quality, whether the Application properly identifies the 100-year floodplain, whether the Applicant provided the information regarding property ownership and its legal status, the competency of the Applicant to own and operate the proposed facility, and financial assurance. Mr. Stegenga's hearing requests included his name and address, identified his personal justiciable interest affected by the application, contained an explanation of his location and distance relative to the proposed facility, requested a contested case hearing, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that David Stegenga's individual hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

42. Linda Stegenga

Ms. Stegenga's timely filed written hearing requests raised the issues of opposition from state government officials, whether the Applicant properly coordinated with Texas Department of Transportation (TXDOT), the monitoring of incoming waste, groundwater quality, air quality, traffic, flooding, control of contaminated water, land use compatibility, potential adverse impacts to wildlife including migratory birds and their habitat, whether the proposed facility is necessary to satisfy a need for waste disposal, soil contamination, potential adverse impacts on property values, and the adequacy of two of the public meetings held. The issue of opposition from state government officials was raised and addressed in Response Number 4 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. The issue of need for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC. This concern is more appropriately addressed to the local council of governments during the development or revision of a regional solid waste management plan. This issue is not relevant and material to TCEQ's decision on this permit application. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Stegenga's hearing requests included her name and address, identified her personal justiciable interest affected by the application, contained an explanation of her location and distance relative to the proposed facility, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Linda Stegenga's individual hearing requests substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

43. Nancy Steward

Ms. Steward's timely filed written hearing request raised the issues of groundwater protection, traffic, potential adverse impacts on property values, and flooding. The issue of potential adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Steward's hearing request included her name and address, identified her personal justiciable interest affected by the application, contained an explanation of her location and distance from the proposed facility, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Nancy Steward's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

44. Thomas Steward

Mr. Steward's timely filed written hearing request raised the issues of flooding, control of contaminated water, wildlife protection, water quality, traffic, and the monitoring of incoming waste. Mr. Steward's hearing request included his name and address, identified his personal justiciable interest affected by the application, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Thomas Steward's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

45. John Tate

Mr. Tate's timely filed written hearing request raised this issue of traffic. Mr. Tate's hearing request included his name and address, identified his personal justiciable interest affected by the application, and listed a relevant and material disputed issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that John Tate's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

46. Rhonda Tate

Ms. Tate's timely filed written hearing request raised the issue of the adequacy of the August 9, 2004 public meeting. Ms. Tate's hearing request included her name and address, identified her personal justiciable interest affected by the application, and listed a relevant and material disputed issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that Rhonda Tate's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

47. Debra Teekamp

Ms. Teekamp's timely filed written hearing request raised the issue of the adequacy of the August 9, 2004 public meeting. Ms. Teekamp's hearing request included her name and address, identified her personal justiciable interest affected by the application, and listed a relevant and material disputed issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that Debra Teekamp's individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

48. Daniel Vargas

Mr. Vargas' timely filed written hearing request raised the issues of traffic, groundwater protection, and the maintenance of site access roads. Mr. Vargas' hearing request included his name and address, identified his personal justiciable interest affected by the application, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Daniel Vargas' individual hearing request substantially complied with the requirements of 30 TAC § 55.201(c) and (d).

49. Dino Villareal

Mr. Villareal's timely filed written hearing request raised the issue of whether the proposed facility is necessary to satisfy Montgomery County's waste disposal needs. The issue of need for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC. This concern is more appropriately addressed to the local council of governments during the development or revision of a regional solid waste management plan. This issue is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission find that Dino Villareal's individual hearing request fails to substantially comply with 30 TAC § 55.201(d)(4).



50. James Walkinshaw

Mr. Walkinshaw's timely filed written hearing request raised the issues of whether the proposed facility is necessary to satisfy Montgomery County's waste disposal needs, traffic, air quality, and water quality. The issue of need for the proposed facility was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC. This concern is more appropriately addressed to the local council of governments during the development or revision of a regional solid waste management plan. This issue is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Mr. Walkinshaw's hearing request included his name and address, identified his personal justiciable interest affected by the application, contained an explanation of his location and distance from the proposed facility, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that James Walkinshaw's individual hearing request substantially complies with the requirements of 30 TAC § 55.201(c) and (d).

51. Karen Welch

Ms. Welch's timely filed written hearing request raised the issues of traffic, water quality, flooding, and future amendments to the permit. The issue of future amendments to the permit was raised and addressed in Response Number 10 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Welch's hearing request included her name and address, identified her personal justiciable interest affected by the application, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Karen Welch's individual hearing request substantially complies with the requirements of 30 TAC § 55.201(c) and (d).

52. Sabrina Westerfeld

Ms. Westerfeld's timely filed written hearing request raised the issues of wetlands protection, flooding, traffic, and potential adverse impacts on property values. The issue of adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Ms. Westerfeld's hearing request included her name and address, identified her personal justiciable interest affected by the application, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that Sabrina Westerfeld's individual hearing request substantially complies with the requirements of 30 TAC § 55.201(c) and (d).

53. Charlotte Williams

Ms. Williams' timely filed hearing request raised the issue of traffic. Ms. Williams' hearing request included his name and address, identified his personal justiciable interest affected by the application, and listed a relevant and material disputed issue of fact that was raised during the comment period.

The Executive Director recommends that the Commission find that Charlotte Williams' individual hearing request substantially complies with the requirements of 30 TAC § 55.201(c) and (d).

54. Paul Zylman

Mr. Zylman's timely filed written hearing request raised the issues of potential adverse impacts on property values, noise, groundwater quality, air quality, traffic, and land use compatibility. The issue of adverse impacts on property values was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC, and is not relevant and material to TCEQ's decision on this permit application. The issue of noise was raised and address in Response Number 21. The TCEQ does not have specific rules addressing noise at MSW facilities. This issue is not relevant and material to TCEQ's decision on this permit application. With respect to the remaining issues, Mr. Zylman's hearing request included his name and address, identified his personal justiciable interest affected by the application, and listed relevant and material disputed issues of fact that were raised during the comment period.

The Executive Director recommends that the Commission find that the Paul Zylman's individual hearing request substantially complies with the requirements of 30 TAC § 55.201(c) and (d).

## **2. Whether the Requestors are Affected Persons**

Neither the applicable statutes nor the MSW rules impose a distance restriction or limitation on a hearing requestor's affected interest. However, the Executive Director has determined that it is unlikely that the operation of the proposed Type IV MSW facility will adversely impact the health, safety, or property use of those requestor's whose property is located more than one mile from the proposed facility. This determination is consistent with the MSW rules, which require an applicant to provide maps, aerial photography, land use compatibility information, and traffic information within one mile of the proposed facility. *See* 30 TAC § 330.61.

a.) Group 1:

The Executive Director recommends that the Commission find that Heather Adams, Lori Adams, Rodney Adkinson, Lewis Akin, Emileen Atkinson, Richard Atkinson, Willie Mae Atkinson, Martha Barr, Jason Bellini, Kimberly Bellini, Betty Blackman, Terry Blackman, Violet Blackman, W. L. Blackman, Ann Blackmer, Robert Blackmer, Barry Brannon, Sherry Brannon, Courtney Brennan, Charles Buzbee, Marie Buzbee, James Crandle, David Deschner, Skipper Fountain, Steven Geisman, Melinda Hall, Sandy Hamilton, Steve Hamilton, Laurie Headings, Sonja Henry, Bobbie Irwin, Laura Jones, Ross Jones, Lorena Jungst, John Kenny, Charles Wade Lyle, Don McCaslin, Maggie McCaslin, Meaghan McCaslin, Tricia McCaslin, Barbara McLeane, Esmeralda McLeane, Matt McLeane, Ned McLeane, Tommy Miller, Jr., Rhonda Nash, David Neal, Debbie Neal, Casey Neely, Judith O'Toole, John Overall, Kelly Radmanovich, Milorad Radmanovich, Lawrence and Carolyn Sue Rains, Patricia Ream, Robert Ream, Maria Ronberg, R. Allen Selph, R. T. Selph, Frances Sheppard, Sfc. James Singleton, Richard Smith, Herbert Somplasky, Nikki Somplasky, Kathryn Spore, Linda Standley, Nancy Steward, Thomas Steward, Bennett Stone, Gordon Trott, Kimberly Trott, Jason Turner, Sandra Turner, Margaret Wagner, James Walkinshaw, Jr., James Watkins, Jr., Cliff Welch, Jim Welch, John Welch, Dale and Karen Welch, Charlotte Williams, James L. Williams, James S. Williams, Lacy Williams, Herschel Wilson, Jacqueline Woychesin, and Paul Zylman, all of whom live or own property within one mile of the proposed facility, are affected persons under 30 TAC § 55.203.

The following requestors live or own property that is located farther than one mile from the proposed facility based upon information provided in their hearing request:

<u>Requestor</u>	<u>Distance from the Proposed Facility</u>
Amy Ashby	1 and 1/4 miles
Kevin Ashby	1 and 1/4 miles
Ebbie Bailey	2 miles
Deborah Bell	4 miles
Rosalie Bianco	1 and 1/2 mile
Kenneth Bishoff	Less than 2 miles
Lea Ann Bishoff	Less than 2 miles
Karen and Tim Bradberry	1.3 miles
Tila Brooks	Within 9 miles
Laura Champagne	Within 1 and 1/2 miles
Gary Chunn	Within 7,000 feet (5,280 feet in 1 mile)
Penny Chunn	Within 7,000 feet (5,280 feet in 1 mile)
Larry Wayne Collins	Within 3 miles
Concerned Citizen # 1	Approximately 3 miles
William Winwright Cribbs	Within 1 and 1/2 miles
Troy Deaton	11 miles
Frank Fanning	Within 2 miles
Stephanie Ford	2 miles
Vanda Ford	2 miles

Judith Gray	1 and 1/2 miles
Beverly Hammett	1 and 3/4 miles
Jerry Hammett	1 and 3/4 miles
Linda Hampton	1 and 1/2 miles
Kathleen Harrison	4 miles
Dallas Hiett	2 and 1/2 miles
Barbara Huddleston	2 miles
Timothy Huston	1 and 1/2 miles
Stanley Johnson	1 and 1/2 miles
Marylin Kinney	2 and 1/2 miles
Henry Knight	Within 2 miles
Sharon Labian	Within 2 miles
Francine Lafield	6 miles
Brice Leverett	10 miles
Edward Lichnerowicz	Within 2 miles
David Louder	6 miles
Christine Ludwig	1.7 miles
David Ludwig	1.7 miles
Jose Marquez	1 and 1/2 miles
Robert Martin	1 and 1/4 miles
James and Lori Mattox	1 and 1/2 miles
Jeffery McCaffrey	1 and 1/2 miles
Melissa McCaffrey	1 and 1/2 miles
Ronald McCaffrey	1 and 1/2 miles
Michelle Miller	Within 10 miles
Robert Miller	Within 1 and 1/2 miles
Lorie Minix	1.3 miles
Christopher Morrill	6 miles
Crystal Morrill	6 miles
Milton Mueller	1 and 1/2 miles
Glenda O'Farrell	1 and 1/2 miles
Jesse Prewitt	Approximately 10 miles
Fransisco Ramirez	2 miles
Charles Reed	1 and 1/2 miles
Kelly Reed	1 and 1/2 miles
David Rendon	1 and 1/2 miles
Terry Rollins	1.3 miles
Alexandra Ronngren	2 miles
David and Mary Rosales	2 miles
Russell Schnoonover	3 miles
Vera Schafer	5 miles
Bob Singleton	Within 9 miles
Charley Smith	12 miles
Jaren Smith	1.3 miles
John Smith	1.3 miles
Leah Smith	1.3 miles

David Tate	2 and 1/2 miles
Rhonda Tate	2 and 1/2 miles
Joyce Taylor	3 miles
Adriadna Teapila	1 and 1/2 miles
Billy Thompson	5 miles
Kenneth Thompson	1 and 1/4 miles
Todd Thompson	1 and 1/2 miles
John Vickery	Within 7 miles
Maria Vickery	Within 7 miles
L. R. Walker	Within 6 miles
R. W. Walker	Within 1 and 1/2 miles
Fahad Waqas	Within 12 miles
Deborah Welch	3 miles
Janet Westbrook	Within 10 miles

The Executive Director also recommends that the Commission find that Amy Ashby, Kevin Ashby, Ebbie Bailey, Deborah Bell, Rosalie Bianco, Kenneth Bishoff, Lea Ann Bishoff, Karen and Tim Bradberry, Tila Brooks, Laura Champagne, Gary Chunn, Penny Chunn, Larry Wayne Collins, Concerned Citizen # 1, William Winwright Cribbs, Troy Deaton, Frank Fanning, Stephanie Ford, Vanda Ford, Judith Gray, Beverly Hammett, Jerry Hammett, Linda Hampton, Kathleen Harrison, Dallas Hiett, Barbara Huddleston, Timothy Huston, Stanley Johnson, Marilyn Kinney, Henry Knight, Sharon Labian, Francine Lafield, Brice Leverett, Edward Lichnerowicz, David Louder, Christine Ludwig, David Ludwig, Jose Marquez, Robert Martin, James and Lori Mattox, Jeffery McCaffrey, Melissa McCaffrey, Ronald McCaffrey, Michelle Miller, Robert Miller, Lorie Minix, Christopher Morrill, Crystal Morrill, Milton Mueller, Glenda O'Farrell, Jesse Prewitt, Fransisco Ramirez, Charles Reed, Kelly Reed , David Rendon, Terry Rollins, Alexandra Ronngren, David and Mary Rosales, Russell Schnoonover, Vera Schafer, Bob Singleton, Charley Smith, Jaren Smith, John Smith, Leah Smith, David Tate, Rhonda Tate, Joyce Taylor, Adriadna Teapila, Billy Thompson, Kenneth Thompson, Todd Thompson, John Vickery, Maria Vickery, L. R. Walker, R. W. Walker, Fahad Waqas, Deborah Welch, and Janet Westbrook, all of whom live or own property that is located farther than one mile from the proposed facility, are not affected persons under 30 TAC § 55.203.

b.) Group 2:

The Executive Director recommends that the Commission find that Stephen Barfield, Johnny Beall, Karen Beall, Jason Bellini, Kimberly Bellini, Charles Buzbee, Marie Buzbee, Floyd Collins, Tina Collins, Joshua Davis, Alberto Enriquez, Anneliese Enriquez, Steven Gothard, Mark Grimes, Kenny Hamby, Seth Jones, Mark Matheny, Albert Nelson, Shelia Nelson, David Sargent, Jr., Stephanie Simmons, James Singleton, Ciara Smalling, Sherry Smalling, George Standley, Linda Standley, Ricky Standley, James Watkins, Dale Welch, Karen Welch, and Julianne Young, all of whom live or own property within one mile from the proposed facility, are affected persons under 30 T.A.C. § 55.203.

The following requestors live or own property that is located farther than one mile from the proposed facility based upon information provided in their hearing request:

<u>Requestor</u>	<u>Distance from Proposed Facility</u>
Justin Abbott	2 miles
Roger Adams	2 miles
Ruth Allen	Approximately 2 miles
Dorthy Bell	3 and 1/2 miles
Mrs. R. A. Benedict	10 miles
Ralph Benedict II	10 miles
Bonnie Braswell	1 and 1/4 miles
Dennis R. Cartwright	Unknown
Rosemary Cartwright	Unknown
James Clanton	2 and 1/2 miles
Belinda Faulkner	5 to 8 miles
Lisa Ford	Unknown
Terri Gandy	Unknown
Sherry Glaze	15 miles
Matt Glazewski	Unknown
Glenela Godejohn	Unknown
Maurice Godejohn	Unknown
Martha Guilbeaux	2 miles
Ronnie Guilbeaux	2 miles
Sheila Hardwick	20 miles
Prescilla Harris	Unknown
Deborah Heuermann	1 and 1/2 miles
Amber Hunt	5 miles
Jimmy Hunt	5 miles
Crystal Kelsoe	3 miles
Eric Kelsoe	3 miles
Ed Kirkland	4 miles
Floralee Lovell	11 miles
James Lovell	7 miles
David Ludwig	2 miles
Charles Lyle	1 and 1/2 miles
Bob McDaniel	Unknown
Terri McDonald	Unknown
Carl and Linda McLeod	Unknown
Linda Middleton	Unknown
Luis Nava	5 miles
Tara Olephant	2 miles
Weda O'Neil	1 and 1/2 miles
Linda Ott	3 miles
Sylvia Padilla	2 miles
Jack Potter	Unknown

Lisa Reasor	8 to 9 miles
Terry Rollins	Unknown
Delores Roost	Approximately 1 and 1/2 miles
J. Sandles	Unknown
John and Leah Smith	1.2 miles
Nikki Somplasky	Approximately 2 miles
Joseph Tanseu	1 and 1/2 miles
David Tate	4 miles
Rhonda Tate	2 miles or 4 miles
Jason Turner	2 miles
Ken Vandine	Unknown
Shawn Wallace	3 miles
Dan Wallaer	5 miles
Cynthia Watford	8 to 10 miles
Shawn Watford	8 miles
Angela Welch	2 miles
Michael Wilkinson	Unknown
Esther Williams	Unknown

The Executive Director also recommends that the Commission find that Justin Abbott, Roger Adams, Ruth Allen, Dorthy Bell, Mrs. R. A. Benedict, Ralph Benedict II, Bonnie Braswell, Dennis R. Cartwright, Rosemary Cartwright, James Clanton, Belinda Faulkner, Lisa Ford, Terri Gandy, Sherry Glaze, Matt Glazewski, Glenela Godejohn, Maurice Godejohn, Martha Guilbeaux, Ronnie Guilbeaux, Sheila Hardwick, Prescilla Harris, Deborah Heuermann, Amber Hunt, Jimmy Hunt, Crystal Kelsoe, Eric Kelsoe, Ed Kirkland, Floralee Lovell, James Lovell, David Ludwig, Charles Lyle, Bob McDaniel, Terri McDonald, Carl and Linda McLeod, Linda Middleton, Luis Nava, Tara Olephant, Weda O'Neil, Linda Ott, Sylvia Padilla, Jack Potter, Lisa Reasor, Terry Rollins, Delores Roost, J. Sandles, John and Leah Smith, Nikki Somplasky, Joseph Tanseu, David Tate, Rhonda Tate, Jason Turner, Ken Vandine, Shawn Wallace, Dan Wallaer, Cynthia Watford, Shawn Watford, Angela Welch, Michael Wilkinson, and Esther Williams, all of whom live or own property that is located farther than one mile from the proposed facility, are not affected persons under 30 TAC § 55.203.

c.) Group 3:

The Executive Director recommends that the Commission find that Douglas Cockerham, Barbara Mayeux, Barbara McLeane, Paul Simmons, Jr., and Charlotte Williams, all of whom live or own property within one mile from the proposed facility, are affected persons under 30 TAC § 55.203.

The following requestors live or own property that is located farther than one mile from the proposed facility based upon the mailing address provided in their hearing request:

<u>Requestor</u>	<u>Distance from Proposed Facility</u>
Rachel Amachole	Unknown

Helen Barge	Unknown
William Boles	Unknown
Stephanie Brennan	Unknown
Tom Brennan	Unknown
Ernest and Marie Brown	Unknown
William Cockerham	Unknown
Amy Colvin	Unknown
Peggy Davis	Unknown
Norma Gibson	Unknown
Vernie Gibson	Unknown
James Harden	Unknown
Tommy Jensen	Unknown
Dalva Keener	Unknown
Stanley Lambery	Unknown
Howard Launius	Unknown
Everette Lawson	Unknown
Donald Myers	Unknown
Mrs. Don Myers	Unknown
Brandi Thoede	Unknown
Jesse Van Liew	Unknown
Jim Vaught	Unknown
Elanor von Tungeln	Unknown
Jim von Tungeln	Unknown
Craig Welch	Unknown
Sandy Welch	Unknown

The Executive Director also recommends that the Commission find that Rachel Amachole, Helen Barge, William Boles, Stephanie Brennan, Tom Brennan, Ernest and Marie Brown, William Cockerham, Amy Colvin, Peggy Davis, Norma Gibson, Venie Gibson, James Harden, Tommy Jensen, Dalva Keener, Stanley Lambery, Howard Launius, Everette Lawson, Donald Myers, Mrs. Don Myers, Brandi Thoede, Jesse Van Liew, Jim Vaught, Elanor von Tungeln, Jim von Tungeln, Craig Welch, and Sandy Welch, all of whom live or own property that is located farther than one mile from the proposed facility, are not affected persons under 30 TAC § 55.203.

d.) Group 4:

The following requestor's live or own property that is located farther than one mile from the proposed facility based upon the mailing address provided in their hearing request:

<u>Requestor</u>	<u>Distance from Proposed Facility</u>
Richard Arnold	Unknown
Eric Bettis	Unknown
Kayla Finley	Unknown
James Frank	Unknown
Vivian Hickman	Unknown



Tanya Hill	Unknown
Chrispen Johnson	Unknown
Norma Kay Lord	Unknown
Donald Myers	Unknown
Clara Riggins	Unknown
Larry Riggins	Unknown
Carol Saxon	Unknown
Marla Todd	Unknown
Elanor von Tungeln	Unknown
James von Tungeln	Unknown
Mark Wiggins	Unknown

The Executive Director recommends that the Commission find that Richard Arnold, Eric Bettis, Kayla Finley, James Frank, Vivian Hickman, Tanya Hill, Chirspen Johnson, Norma Kay Lord, Donald Myers, Clara Riggins, Larry Riggins, Carol Saxon, Marla Todd, Elanor von Tungeln, James von Tungeln, and Mark Wiggins, all of whom live or own property located farther than one mile from the proposed facility, are not affected persons under 30 TAC § 55.203.

e.) Group 5:

The Executive Director recommends that the Commission find that Linda Collins, Tina Collins, Albert and Shelia Nelson, and Karen Welch, all of whom live or own property within one mile of the proposed facility, are affected persons under 30 TAC § 55.203.

The following requestor's live or own property that is located farther than one mile from the proposed facility based upon the mailing address provided in their hearing request:

<u>Requestor</u>	<u>Distance from Proposed Facility</u>
Norma Gibson	Unknown
Billy Wagnon	Unknown

The Executive Director also recommends that the Commission find that Norma Gibson and Billy Wagnon, both of whom live or own property that is located farther than one mile from the proposed facility, are not affected persons under 30 TAC § 55.203.

f.) Group 6:

The Executive Director recommends that the Commission find that Daniel Heil and Jerri Heil, both of whom live or own property within one mile of the proposed facility, are affected persons under 30 TAC §. 55.203.

g.) Montgomery County, Texas

Montgomery County, Texas is a local governmental entity with statutory authority over issues relevant to the application; namely, its role in local or regional solid waste management planning pursuant to Chapter 363 of the Texas Health and Safety Code.

The Executive Director recommends that the Commission find that Montgomery County, Texas is an affected person under 30 TAC § 55.203.

h.) Individual Requestors

The Executive Director recommends that the Commission find that Doug Crofton, Rev. Duane Hamilton, Sandy Hamilton, Wayne Kocurer, Nonnie Maffet, Ronald Maffet, Barbara Mayeux, Travis Mayeux, Barbara McLeane, R. M. Palmer, on behalf of International Paper, Realty Division (International Paper), Lawrence and Carolyn Sue Rains, Melvin Shape, Cassie Smith, Linda Standley, David Stegenga, Linda Stegenga, Nancy Steward, Thomas Steward, James Walkinshaw, Jr., Karen Welch, and Paul Zylman, all of whom live or own property within one mile of the proposed facility, are affected persons under 30 TAC § 55.203.

The following requestor's live or own property that is located farther than one mile from the proposed facility based upon their mailing address or other information provided in their hearing request:

<u>Requestor</u>	<u>Distance from Proposed Facility</u>
Denise Bell	Unknown
Karen Bradberry	1.3 miles
Jim Dawson	Unknown
Judith Horne	Unknown
Thornton Ireland	Unknown
Earnest Kannak, Jr.	Unknown
Mary Lou Kirves	Unknown
Christine Ludwig	1.7 miles
Steven Matthews	Unknown
Carol Parten	Unknown
Greg Poole	Unknown
Louis Reiszner	Unknown
Carla Robles	Unknown
Pedro Rosales, Jr.	Unknown
Lynda and Bob Sasser	Unknown
Anita Severa	Unknown
John Smith	1.3 miles
Leah Smith	1.3 miles
Robert Smith	1.3 miles
David Tate	2 and 1/2 miles
Rhonda Tate	2 and 1/2 miles
Debra Teekamp	Unknown
Daniel Vargas	Unknown

Sabrina Westerfeld  
Charlotte Williams

Unknown  
Less than 1 mile

The Executive Director also recommends that the Commission find that Denise Bell, Karen Bradberry, Jim Dawson, Judith Horne, Thornton Ireland, Earnest Kannak, Jr., Mary Lou Kirves, Christine Ludwig, Steven Matthews, Carol Parten, Greg Poole, Louis Reiszner, Carla Robles, Pedro Rosales, Jr., Lynda and Bob Sasser, Anita Severa, John Smith, Leah Smith, Robert Smith, David Tate, Rhonda Tate, Debra Teekamp, Daniel Vargas, Sabrina Westerfeld, and Charlotte Williams, all of whom live or own property that is located farther than one mile from the proposed facility, are not affected persons under 30 TAC § 55.203.

**3. Whether Citizens Against Montgomery Landfill (CAML) complied with 30 TAC § 55.205**

Each of the hearing requests filed by Mary Carter, of Blackburn & Carter, P.C., lists Paul Zylman as a member of CAML. As stated above, the Executive Director believes that Mr. Zylman is an affected person who would otherwise have standing to request a hearing in his own right. The interests that CAML seeks to protect are germane to their purpose, and neither the claims asserted nor the relief requested requires the participation of individual members in the case.

The Executive Director recommends that the Commission find that CAML complied with 30 TAC § 55.205.

**B. Whether the Issues Are Referable to SOAH**

In addition to recommending to the Commission those persons who qualify as affected persons, the Executive Director analyzes issues raised in accordance with the regulatory criteria. Unless otherwise noted, the issues discussed below were all raised during the public comment period. None of the issues were raised solely in a comment which has been withdrawn. All the identified issues in the response are considered disputed, unless otherwise noted.

**1. Whether the Applicant complied with the alternative language newspaper notice requirement at 30 TAC § 39.405(h).**

This issue was raised and addressed in Response Number 2 of the Executive Director's First Amended Response to Public Comment (First Amended RTC). This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the public comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**2. Whether the Application should be allowed to proceed in light of opposition from state and local government officials.**

This issue was raised and addressed in Response Number 4 of the Executive Director's First Amended RTC. TCEQ rules do not require an applicant for a new MSW facility to obtain the support of state or local governmental officials. Statements made by state or local governmental officials in support or opposition to an application are given the same weight as any public comment.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**3. Whether the processing of the Application was competently managed by the TCEQ.**

This issue was raised and addressed in Response Number 6 of the Executive Director's First Amended RTC. Review times for the TCEQ permitting process are defined in TCEQ rules in accordance with state law. This application review has gone well beyond the typical time frame allotted due to the extension of the comment period to allow for additional public meetings, the submission and subsequent technical review of the amended permit application, and responding to extensive public comment.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**4. Whether the State of Texas should provide the Requestors with an attorney.**

This issue was raised and addressed in Response Number 7 of the Executive Director's First Amended RTC. An attorney is not necessary to participate in the public participation process. Neither federal nor state law requires the state to provide counsel in administrative law matters. This issue is not relevant and material to the TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**5. Whether the proposed MSW facility is necessary to satisfy Montgomery County's waste disposal needs.**

This issue was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC. This concern is more appropriately addressed to the local council of governments during the development or revision of a regional solid waste management plan. The regional solid waste management plan for Montgomery County, developed by the Houston-Galveston Area Council of Governments (H-GAC), calls for a Type IV landfill in Montgomery County to serve the region's waste disposal needs. This issue is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**6. Whether the Application should be allowed to proceed in light of the fact that the Applicant could sell their interest after the permit is issued.**

This issue was raised and addressed in Response Number 42 of the Executive Director's First Amended RTC. The Executive Director has no information that indicates that, should the permit be issued, the Applicant intends to sell the permit. However, TCEQ rules do not prohibit such a transaction provided that it is properly documented and accepted through a permit modification, requiring public notice, pursuant to 30 TAC § 305.70(k)(13). This issue is not relevant and material to TCEQ's decision on this permit application

The Executive Director recommends that the Commission not refer this issue to SOAH.

**7. Whether the Application adequately addresses land use compatibility pursuant to 30 TAC § 330.53(b)(8).**

This issue was raised and addressed in Response Numbers 15 and 39 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**8. Whether the Application adequately addresses traffic concerns pursuant to 30 TAC §§ 330.51(b)(6)(C) and 330.53(b)(9).**

This issue was raised and addressed in Response Number 16 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**9. Whether the Application properly identifies the 100-year floodplain pursuant to 30 TAC §§ 330.53(b)(12), 330.56(f)(3), and 330.56(f)(4)(B)(i).**

This issue was raised and addressed in Response Number 24 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**10. Whether the Application adequately addresses flooding concerns pursuant to 30 TAC § 330.56(f).**

This issue was raised and addressed in Response Number 24 and 25 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**11. Whether the proposed liner design will adequately protect groundwater resources pursuant to 30 TAC § 330.200(e).**

This issue was raised and addressed in Response Numbers 26 and 27 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**12. Whether the proposed groundwater monitoring system design will adequately protect groundwater and soils from contamination pursuant to 30 TAC § 330.239.**

This issue was raised and addressed in Response Numbers 26, 27, and 29 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**13. Whether the Application should be denied based on potential adverse impacts to property values in the surrounding communities.**

This issue was raised and addressed in Response Number 39 of the Executive Director's First Amended RTC. The Texas Legislature has tasked the TCEQ with regulating the management of municipal solid waste in the state. TCEQ rules were promulgated to protect human health and safety, and the environment. Potential impacts on property values are outside the scope of the normal evaluation of a municipal solid waste application. This issue is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**14. Whether the Application satisfies 30 TAC §§ 330.56(o) and 330.139 regarding the handling, storage, treatment, and disposal of contaminated water.**

This issue was raised and addressed in Response Numbers 27 and 28 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**15. Whether the Application satisfies 30 TAC § 330.56(f) regarding surface water drainage control.**

This issue was raised and addressed by Response Numbers 27 and 28 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**16. Whether the Application contains the information about groundwater and aquifer conditions at the site required by 30 TAC §§ 330.53(b)(11)(A) and 330.56(d)(4).**

This issue was raised and addressed by Response Numbers 27 and 29 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**17. Whether the maps contained in the Application comply with 30 TAC § 330.52(b)(4).**

This issue was raised and addressed by Response Number 15 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**18. Whether the Application contains adequate provisions for the visual screening of the proposed facility.**

This issue was raised and addressed in Response 22 of the Executive Director's First Amended RTC. 30 TAC § 330.138 provides that visual screening of deposited waste at an MSW facility must be provided by the owner or operator for the facility where the Executive Director determines that such screening is necessary. The Executive Director has determined that visual screening is not necessary for the proposed facility. This issue

is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**19. Whether the Applicant has adequately demonstrated that the proposed facility will not adversely impact wetlands and associated wildlife, including migratory birds pursuant to 30 TAC § 330.302.**

This issue was raised and addressed in Response 31 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**20. Whether the Applicant has adequately demonstrated that the proposed facility will not adversely impact endangered or threatened species or their habitat pursuant to 30 TAC § 330.129.**

This issue was raised and addressed in Response 31 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**21. Whether the Applicant has demonstrated compliance with the regional solid waste management plan, as required by 30 TAC § 330.51(b)(10).**

This issue was raised and addressed in Response 4 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**22. Whether the Application contains appropriate cost estimates for the closure and post-closure care of the proposed facility pursuant to 30 TAC §§ 330.281(a) and 330.283(a).**

This issue was raised and addressed in Response 40 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.



The Executive Director recommends that the Commission refer this issue to SOAH.

**23. Whether nearby residents would be notified of contamination occurring at the proposed facility in a prompt manner pursuant to 30 TAC §§ 330.56(n)(3)(A) for landfill gas and 330.235(g)(1)(C) and 330.236(d).**

This issue was raised and addressed in Response Numbers 29 and 33 of the Executive Director's First Amended RTC. After a determination that the facility has a contaminated shallow water-bearing zone, the Executive Director may order corrective action pursuant to 30 TAC § 330.239(b)(7). Public notice regarding corrective action measures is governed by 30 TAC § 330.236(d). This issue raises a disputed issue of law rather than fact, and is not relevant and material to TCEQ's decision on this permit application

The Executive Director recommends that the Commission not refer this issue to SOAH.

**24. Whether the addition of the proposed MSW facility constitutes landfill clustering in the area.**

This issue was raised and addressed in Response Number 11 of the Executive Director's First Amended RTC. This concern is more appropriately addressed to the local council of governments during the development or revision of a regional solid waste management plan. The regional solid waste management plan for Montgomery County, developed by the Houston-Galveston Area Council of Governments (H-GAC), calls for a Type IV landfill in Montgomery County to serve the region's waste disposal needs. This issue is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**25. Whether the Application adequately provides for dust control pursuant to 30 TAC § 330.127(b).**

This issue was raised and addressed in Response Number 32 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**26. Whether the Application adequately provides for the maintenance of site access roads in a clean and safe condition pursuant to 30 TAC § 330.127(c).**

This issue was raised and addressed in Response Number 20 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and

material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**27. Whether a contested case hearing on the Application should be held in Montgomery County.**

This issue was raised and addressed in Response Number 3 of the Executive Director's First Amended RTC. The SOAH Administrative Law Judge (ALJ) will determine the appropriate venue for the hearing. Pursuant to 1 TAC § 155.403, the SOAH ALJ will designate a neutral hearing site in accordance with applicable law. This issue is not relevant and material to TCEQ's decision on the application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**28. Whether the Application adequately provides for the control of windblown waste and litter pursuant to 30 TAC § 330.120.**

This issue was raised and addressed in Response Number 20 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**29. Whether the Application adequately provides for odor control pursuant to 30 TAC § 330.125(b).**

This issue was raised and address in Response Numbers 21 and 32 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**30. Whether the Application adequately provides for disease vector control pursuant to 30 TAC § 330.126.**

This issue was raised and addressed in Response Numbers 21 and 23 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**31. Whether the proposed facility will adversely impact individual mineral rights at the landfill site that are not under the control of the Applicant.**

This issue was raised and addressed in Response Number 38 of the Executive Director's First Amended RTC. The TCEQ does not have jurisdiction from the legislature to regulate mineral rights. Waste disposal authorizations from the TCEQ do not grant any property rights or special privileges to the holder of those authorizations. The issue of mineral rights is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**32. Whether the Applicant provided the information required by 30 TAC §§ 330.52(b)(7) and (b)(8) regarding property ownership and its legal status.**

This issue was raised and addressed in Response Number 13 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**33. Whether the public meeting requirements of 30 TAC § 39.501(e) were met.**

This issue was raised and addressed in Response Number 3 of the Executive Director's First Amended RTC. Due to the dissatisfaction expressed at the August 9, 2004 public meeting, where the size of the facility made it unable to accommodate all those who wished to participate, the TCEQ conducted a second public meeting on March 10, 2005 in order to accommodate all interested parties. A third public meeting was also held on April 10, 2008 to allow interested parties to comment on the amended application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**34. Whether the Application contains adequate operating procedures to prevent the disposal of prohibited waste pursuant to 30 TAC § 330.114(5).**

This issue was raised and addressed in Response Number 19 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**35. Whether the Application contains the financial assurance information required by 30 TAC §§ 330.281(b) and 330.283(b).**

This issue was raised and addressed in Response 40 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**36. Whether the Applicant should be required to seek an alternative location for the proposed facility.**

This issue was raised and addressed in Response 11 of the Executive Director's First Amended RTC. TCEQ rules were promulgated to ensure that an MSW facility does not pose a health risk to the surrounding community. The Executive Director does not have the authority to consider alternative locations for proposed facilities. This issue is not relevant and material to TCEQ's decision on the permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**37. Whether the operating procedures in the Application adequately addresses fire protection pursuant to 30 TAC § 330.115.**

This issue was raised and addressed in Response Number 14 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**38. Whether the Application adequately protects against illegal dumping in the area surrounding the proposed facility.**

This issue was raised and addressed in Response Number 19 of the Executive Director's First Amended RTC. Illegal dumping in Montgomery County should be reported to the TCEQ by calling toll-free, 1-888-777-3186 or by calling the TCEQ Region 12 Office in Houston at (713) 767-3500. The MSW rules do not require applicants for a new MSW facility to take protective measures against illegal dumping in the area surrounding the proposed facility. This issue is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

**39. Whether the Applicant submitted the information required by 30 TAC § 330.52(b)(9), evidencing competency to operate the proposed site.**

This issue was raised and addressed by Response Number 41 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and

material to TCEQ's decision on the permit application. This issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**40. Whether the Applicant properly coordinated with Texas Department of Transportation (TXDOT) pursuant to 30 TAC § 330.51(b)(6)(C).**

This issue was raised and addressed in Response Number 16 of the Executive Director's First Amended RTC. This issue is within TCEQ's jurisdiction and is relevant and material to TCEQ's decision on the permit application. This issue involves a question of fact, is disputed, was raised during the comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

**41. Whether the Application adequately addresses noise from the proposed facility.**

This issue was raised and addressed in Response Number 21 of the Executive Director's First Amended RTC. The TCEQ does not have specific rules addressing noise at MSW facilities. This issue is not relevant and material to TCEQ's decision on this permit application.

The Executive Director recommends that the Commission not refer this issue to SOAH.

## **VI. Response to Requests for Reconsideration**

The TCEQ's Office of Chief Clerk received requests for reconsideration of the Executive Director's decision on this application from Deborah Doran, Thornton Ireland, Barbara Mayeux, and Linda Standley. Deborah Doran's request for reconsideration raised the issues of traffic, flooding, groundwater contamination, wetlands protection, potential adverse effects on wildlife including migratory birds and their habitat, landfill clustering, protection of endangered or threatened species, potential adverse impact on property values, and an alternative site location for the proposed facility. Thornton Ireland's request for reconsideration raised the issues of dust control, groundwater protection, and traffic. Barbara Mayeux's request for reconsideration raised the issues of landfill clustering, traffic, maintenance of site access roads, flooding, monitoring of incoming waste, and water quality. Linda Standley's request for reconsideration raised the issues of alternative language notice requirements, and landfill clustering. These requests did not raise any issues not already addressed by the Executive Director during his review of this application and preparation of the First Amended RTC, nor did they present any new information that would cause the Executive Director to alter his decision. Accordingly, the Executive Director recommends that the Commission deny the requests for reconsideration.

## **VII. Duration of the Contested Case Hearing**

Should the Commission decide to refer the case, the Executive Director recommends that the duration for a contested case hearing on this matter between the preliminary hearing and the presentation of a proposal for decision before the Commission be nine months.

### **VIII. Executive Director's Recommendations**

The Executive Director recommends the following actions by the Commission:

- a) Find that the following requestors are affected persons:

Citizens Against Montgomery Landfill (CAML)

Montgomery County, Texas

#### Group 1

Heather Adams, Lori Adams, Rodney Adkinson, Lewis Akin, Emileen Atkinson, Richard Atkinson, Willie Mae Atkinson, Martha Barr, Jason Bellini, Kimberly Bellini, Betty Blackman, Terry Blackman, Violet Blackman, W. L. Blackman, Ann Blackmer, Robert Blackmer, Barry Brannon, Sherry Brannon, Courtney Brennan, Charles Buzbee, Marie Buzbee, James Crandle, David Deschner, Skipper Fountain, Steven Geisman, Melinda Hall, Sandy Hamilton, Steve Hamilton, Laurie Headings, Sonja Henry, Bobbie Irwin, Laura Jones, Ross Jones, Lorena Jungst, John Kenny, Charles Wade Lyle, Don McCaslin, Maggie McCaslin, Meaghan McCaslin, Tricia McCaslin, Barbara McLeane, Esmeralda McLeane, Matt McLeane, Ned McLeane, Tommy Miller, Jr., Rhonda Nash, David Neal, Debbie Neal, Casey Neely, Judith O'Toole, John Overall, Kelly Radmanovich, Milorad Radmanovich, Lawrence and Carolyn Sue Rains, Patricia Ream, Robert Ream, Maria Ronberg, R. Allen Selph, R. T. Selph, Frances Sheppard, Sfc. James Singleton, Richard Smith, Herbert Somplasky, Nikki Somplasky, Kathryn Spore, Linda Standley, Nancy Steward, Thomas Steward, Bennett Stone, Gordon Trott, Kimberly Trott, Jason Turner, Sandra Turner, Margaret Wagner, James Walkinshaw, Jr., James Watkins, Jr., Cliff Welch, Jim Welch, John Welch, Dale and Karen Welch, Charlotte Williams, James L. Williams, James S. Williams, Lacy Williams, Herschel Wilson, Jacqueline Woychesin, and Paul Zylman

#### Group 2

Stephen Barfield, Johnny Beall, Karen Beall, Jason Bellini, Kimberly Bellini, Charles Buzbee, Marie Buzbee, Floyd Collins, Tina Collins, Joshua Davis, Alberto Enriquez, Anneliese Enriquez, Steven Gothard, Mark Grimes, Kenny Hamby, Seth Jones, Mark Matheny, Albert Nelson, Shelia Nelson, David Sargent, Jr., Stephanie Simmons, James Singleton, Ciara Smalling, Sherry Smalling, George Standley, Linda Standley, Ricky Standley, James Watkins, Dale Welch, Karen Welch, and Julianne Young

#### Group 3

Douglas Cockerham, Barbara Mayeux, Barbara McLeane, Paul Simmons, Jr., and Charlotte Williams

Group 5

Linda Collins, Tina Collins, Albert and Shelia Nelson, and Karen Welch

Group 6

Daniel Heil and Jerri Heil

Individual Requestors

Doug Crofton, Rev. Duane Hamilton, Sandy Hamilton, Wayne Kocurer, Nonnie Maffet, Ronald Maffet, Barbara Mayeux, Travis Mayeux, Barbara McLeane, R. M. Palmer, on behalf of International Paper, Realty Division (International Paper), Lawrence and Carolyn Sue Rains, Melvin Shape, Cassie Smith, Linda Standley, David Stegenga, Linda Stegenga, Nancy Steward, Thomas Steward, James Walkinshaw, Jr., Karen Welch, and Paul Zylman

- b) Find that the following requestors are not affected persons:

Group 1

Amy Ashby, Kevin Ashby, Ebbie Bailey, Deborah Bell, Rosalie Bianco, Kenneth Bishoff, Lea Ann Bishoff, Karen and Tim Bradberry, Tila Brooks, Laura Champagne, Gary Chunn, Penny Chunn, Larry Wayne Collins, Concerned Citizen # 1, William Winwright Cribbs, Troy Deaton, Frank Fanning, Stephanie Ford, Vanda Ford, Judith Gray, Beverly Hammett, Jerry Hammett, Linda Hampton, Kathleen Harrison, Dallas Hielt, Barbara Huddleston, Timothy Huston, Stanley Johnson, Marilyn Kinney, Henry Knight, Sharon Labian, Francine Lafield, Brice Levèrett, Edward Lichnerowicz, David Louder, Christine Ludwig, David Ludwig, Jose Marquez, Robert Martin, James and Lori Mattox, Jeffery McCaffrey, Melissa McCaffrey, Ronald McCaffrey, Michelle Miller, Robert Miller, Lorie Minix, Christopher Morrill, Crystal Morrill, Milton Mueller, Glenda O'Farrell, Jesse Prewitt, Fransisco Ramirez, Charles Reed, Kelly Reed , David Rendon, Terry Rollins, Alexandra Ronngren, David and Mary Rosales, Russell Schnoonover, Vera Schafer, Bob Singleton, Charley Smith, Jaren Smith, John Smith, Leah Smith, David Tate, Rhonda Tate, Joyce Taylor, Adriadna Teapila, Billy Thompson, Kenneth Thompson, Todd Thompson, John Vickery, Maria Vickery, L. R. Walker, R. W. Walker, Fahad Waqas, Deborah Welch, and Janet Westbrook

Group 2

Justin Abbott, Roger Adams, Ruth Allen, Dorthy Bell, Mrs. R. A. Benedict, Ralph Benedict II, Bonnie Braswell, Dennis R. Cartwright, Rosemary Cartwright, James Clanton, Belinda Faulkner, Lisa Ford, Terri Gandy, Sherry Glaze, Matt Glazewski, Glenela Godejohn, Maurice Godejohn, Martha Guilbeaux, Ronnie Guilbeaux, Sheila Hardwick, Prescilla Harris, Deborah Heuermann, Amber Hunt, Jimmy Hunt, Crystal Kelsoe, Eric Kelsoe, Ed Kirkland, Floralee Lovell, James

Lovell, David Ludwig, Charles Lyle, Bob McDaniel, Terri McDonald, Carl and Linda McLeod, Linda Middleton, Luis Nava, Tara Olephant, Weda O'Neil, Linda Ott, Sylvia Padilla, Jack Potter, Lisa Reasor, Terry Rollins, Delores Roost, J. Sandles, John and Leah Smith, Nikki Somplasky, Joseph Tanseu, David Tate, Rhonda Tate, Jason Turner, Ken Vandine, Shawn Wallace, Dan Wallaer, Cynthia Watford, Shawn Watford, Angela Welch, Michael Wilkinson, and Esther Williams

Group 3

Rachel Amachole, Helen Barge, William Boles, Stephanie Brennan, Tom Brennan, Ernest and Marie Brown, William Cockerham, Amy Colvin, Peggy Davis, Norma Gibson, Venie Gibson, James Harden, Tommy Jensen, Dalva Keener, Stanley Lambery, Howard Launius, Everette Lawson, Donald Myers, Mrs. Don Myers, Brandi Thoede, Jesse Van Liew, Jim Vaught, Elanor von Tungeln, Jim von Tungeln, Craig Welch, and Sandy Welch

Group 4

Richard Arnold, Eric Bettis, Kayla Finley, James Frank, Vivian Hickman, Tanya Hill, Chirspen Johnson, Norma Kay Lord, Donald Myers, Clara Riggins, Larry Riggins, Carol Saxon, Marla Todd, Elanor von Tungeln, James von Tungeln, and Mark Wiggins

Group 5

Norma Gibson and Billy Wagnon

Individual Requestors

Denise Bell, Karen Bradberry, Jim Dawson, Judith Horne, Thornton Ireland, Earnest Kannak, Jr., Mary Lou Kirves, Christine Ludwig, Steven Matthews, Carol Parten, Greg Poole, Louis Reiszner, Carla Robles, Pedro Rosales, Jr., Lynda and Bob Sasser, Anita Severa, John Smith, Leah Smith, Robert Smith, David Tate, Rhonda Tate, Debra Teekamp, Daniel Vargas, Sabrina Westerfeld, and Charlotte Williams

- c) Should the Commission find that any of the requestors are affected persons, the following issues should be referred to SOAH for a Contested Case Hearing for a duration of nine months:
1. Whether the Applicant complied with the alternative language newspaper notice requirement at 30 TAC § 39.405(h).
  2. Whether the Application adequately addresses land use compatibility pursuant to 30 TAC § 330.53(b)(8).
  3. Whether the Application adequately addresses traffic concerns pursuant to 30 TAC §§ 330.51(b)(6)(C) and 330.53(b)(9).



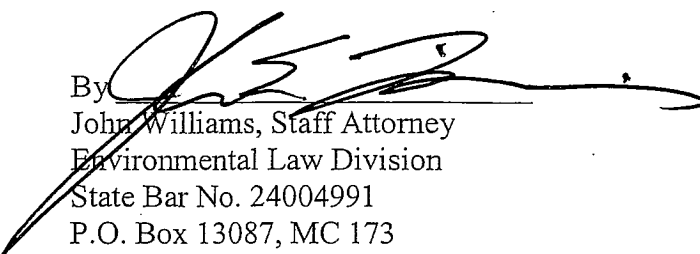
4. Whether the Application properly identifies the 100-year floodplain pursuant to 30 TAC §§ 330.53(b)(12), 330.56(f)(3), and 330.56(f)(4)(B)(i).
5. Whether the Application adequately addresses flooding concerns pursuant to 30 TAC § 330.56(f).
6. Whether the proposed liner design will adequately protect groundwater resources pursuant to 30 TAC § 330.200(e).
7. Whether the proposed groundwater monitoring system design will adequately protect groundwater and soils from contamination pursuant to 30 TAC § 330.239.
8. Whether the Application satisfies 30 TAC §§ 330.56(o) and 330.139 regarding the handling, storage, treatment, and disposal of contaminated water.
9. Whether the Application satisfies 30 TAC § 330.56(f) regarding surface water drainage control.
10. Whether the Application contains the information about groundwater and aquifer conditions at the site required by 30 TAC §§ 330.53(b)(11)(A) and 330.56(d)(4).
11. Whether the maps contained in the Application comply with 30 TAC § 330.52.(b)(4).
12. Whether the Application contains adequate provisions for the visual screening of the proposed facility pursuant to 30 TAC § 330.138.
13. Whether the Applicant has adequately demonstrated that the proposed facility will not adversely impact wetlands and associated wildlife, including migratory birds pursuant to 30 TAC § 330.302.
14. Whether the Applicant has adequately demonstrated that the proposed facility will not adversely impact endangered or threatened species or their habitat pursuant to 30 TAC § 330.129.
15. Whether the Applicant has demonstrated compliance with the regional solid waste management plan, as required by 30 TAC § 330.51(b)(10).
16. Whether the Application contains appropriate cost estimates fro the closure and post-closure care of the proposed facility pursuant to 30 TAC §§ 330.281(a) and 330.283(a).
17. Whether the application adequately provides for dust control pursuant to 30 TAC § 330.127(b).

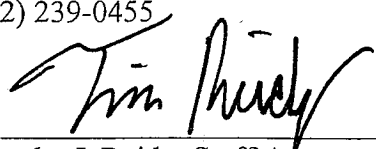
18. Whether the Application adequately provides for the maintenance of site access roads in a clean and safe condition pursuant to 30 TAC § 330.127(c).
  19. Whether the Application adequately provides for the control of windblown waste and litter pursuant to 30 TAC § 330.120.
  20. Whether the Application adequately provides for odor control pursuant to 30 TAC § 330.125(b).
  21. Whether the Application adequately provides for disease vector control pursuant to 30 TAC § 330.126.
  22. Whether the Applicant provided the information required by 30 TAC §§ 330.52(b)(7) and (b)(8) regarding property ownership and its legal status
  23. Whether the Application contains adequate operating procedures to prevent the disposal of prohibited waste pursuant to 30 TAC § 330.114(5).
  24. Whether the Application contains the financial assurance information required by 30 TAC §§ 330.281(b) and 330.283(b).
  25. Whether the operating procedures in the Application adequately addresses fire protection pursuant to 30 TAC § 330.115.
  26. Whether the Applicant submitted the information required by 30 TAC § 330.52(b)(9), evidencing competency to operate the proposed site.
  27. Whether the Applicant properly coordinated with Texas Department of Transportation (TXDOT) pursuant to 30 TAC § 330.51(b)(6)(C).
- d) Deny the Requests for Reconsideration filed by Deborah Doran, Thornton Ireland, Barbara Mayeux, and Linda Standley.

Respectfully submitted,  
Texas Commission on Environmental  
Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division

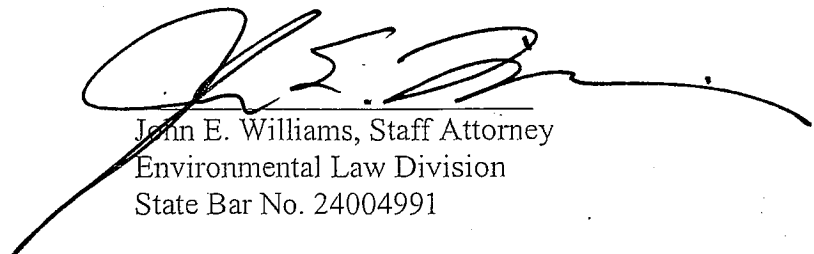
By   
John Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-0455

By   
Timothy J. Reidy, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-0969

REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY

**CERTIFICATE OF SERVICE**

I certify that on June 15, 2009, an original and seven copies of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" relating to the application of Montgomery Landfill Solutions, L.P. for Permit No. 2324 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was transmitted by mail, facsimile, or hand-delivery to all persons on the attached mailing list.

  
John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991

**Attachment A – Technical  
Summary of Permit**

FAX / PDF  
Copy

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

DATE:

TO: LaDonna Castañuela, Chief Clerk

THRU: Jacqueline S. Hardee, P.E., Director  
Waste Permits Division

FROM: Richard C. Carmichael, Ph.D., P.E.  
Manager, Municipal Solid Waste Permits Section  
Waste Permits Division

SUBJECT: MLS Type IV Landfill - Montgomery County  
Municipal Solid Waste - Permit Application No. 2324

APPLICANT: Montgomery Landfill Solutions, L.P.  
13921 Hwy 105 W, Suite 137  
Conroe, Texas 77304

	Initials	Date
Originator	ETB	6/8/09
Team Ldr	JA	6/11/09
Admin	JBO	6/11/09
Sect Mgr	RCC	6/11/09
Div Dir		

L:\Staff\Team  
NEBELLER\Applications\2324  
MLS Type IV  
Landfill\AmendedApplication\Tech  
CompPackage\Occ memo  
6.08.09.doc

Contact: Mr. Jeff McClanahan Phone: (713) 306-7471  
Montgomery County Landfill, LLC, General Partner of Montgomery Landfill  
Solutions, L.P.

Site: MLS Type IV Landfill

Attached is a revised Technical Summary for the above-referenced application. This Technical Summary replaces the Technical Summary filed with your office under interoffice memorandum dated November 6, 2007. This application was declared administratively complete on April 6, 2004, and technically complete on September 24, 2007. This application is contested and has been assigned TCEQ Docket Number 2005-1371-MSW.

Should you have any questions or need more information, please contact Mr. Eric Beller at 239-1177.

Attachments


JSH/ETB/

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

DATE: June 11, 2009

TO: LaDonna Castañuela, Chief Clerk

THRU: Carlotta Vann   
Waste Permits Division

FROM: Richard C. Carmichael, Ph.D., P.E. *RC*  
Manager, Municipal Solid Waste Permits Section  
Waste Permits Division

SUBJECT: MLS Type IV Landfill - Montgomery County  
Municipal Solid Waste - Permit Application No. 2324

APPLICANT: Montgomery Landfill Solutions, L.P.  
13921 Hwy 105 W, Suite 137  
Conroe, Texas 77304

Contact: Mr. Jeff McClanahan Phone: (713) 306-7471  
Montgomery County Landfill, LLC, General Partner of Montgomery Landfill  
Solutions, L.P.

Site: MLS Type IV Landfill

Attached is a revised Technical Summary for the above-referenced application. This Technical Summary replaces the Technical Summary filed with your office under interoffice memorandum dated November 6, 2007. This application was declared administratively complete on April 6, 2004, and technically complete on September 24, 2007. This application is contested and has been assigned TCEQ Docket Number 2005-1371-MSW.

Should you have any questions or need more information, please contact Mr. Eric Beller at 239-1177.

Attachments

JSH/ETB/fp

**TECHNICAL SUMMARY  
of the**

**MLS TYPE IV LANDFILL  
MSW PERMIT APPLICATION  
No. 2324**

**Type IV  
Municipal Solid Waste Facility  
Montgomery County, Texas**

Applicant:  
**Montgomery Landfill Solutions, L.P.**

Date Prepared: September 13, 2007

Prepared and Issued by the  
Texas Commission on Environmental Quality (TCEQ)  
Office of Permitting, Remediation and Registration  
Waste Permits Division  
Municipal Solid Waste (MSW) Permits Section

This summary was prepared in accordance with 30 Texas Administrative Code Section 281.21(c). The information contained in this summary is based upon the permit application. Not all of the information contained in this summary has been independently verified.

Technical Summary  
MSW Permit Application No. 2324  
Montgomery County  
Page 2

Name of Applicant: Montgomery Landfill Solutions, L.P.  
13921 Hwy 105 West, Suite 137  
Conroe, TX 77304

Name of Facility: MLS Type IV Landfill

Contact Person: Mr. Jeff McClanahan, Manager  
13921 Hwy 105 West, Suite 137  
Conroe, TX 77304  
(713) 306-7471

Consulting Engineers: Mr. Gary R. Horwitch, P.E., Sr. Consultant  
Metroplex Industries, Inc.  
14423 Cornerstone Village Drive  
Houston, TX 77014  
(281) 440-5503

Type of Facility: 207.1-acre Type IV waste unit on a 473.0-acre facility

1. GENERAL

1.1 Purpose:

This permit application, submitted by Montgomery Landfill Solutions, Inc., is to construct and operate a new Type IV Municipal Solid Waste (MSW) landfill in Montgomery County, Texas. The total permitted facility will include 473.0 acres of land of which approximately 207.1 acres will be used for waste disposal. The final elevation of the waste fill and final cover material will be 408.29 feet above mean sea level (msl). The site will be authorized to accept the waste streams as listed below.

1.2 Wastes to be Accepted:

Solid waste to be disposed of will primarily consist of municipal solid waste resulting from, or incidental to, construction, demolition and groundskeeping activities, including brush, construction/demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free of putrescible and household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer/recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director. The proposed landfill is prohibited to accept waste materials other than those mentioned above, and those waste streams that are expressly prohibited by 30 Texas Administrative Code (TAC) Chapter 330, including but not limited to hazardous waste, Class 1 non-hazardous industrial waste, Class 2 non-hazardous industrial waste, Class 3 non-hazardous industrial waste, regulated radioactive waste, waste containing regulated polychlorinated biphenyls, putrescible waste, household waste, liquid waste, water and wastewater treatment sludge, grease/grit trap wastes, special wastes, and waste materials that may cause an odor or nuisance or that may require excessive or special onsite procedures and handling requirements.



1.3 Waste Acceptance Rate:

Authorized wastes will be accepted at an anticipated initial average rate of approximately 858,000 tons per year (3,000 tons per day, 6 days per week) to a final average rate of approximately 1,145,000 tons per year (4,000 tons per day, 6 days per week) which results in an estimated life of approximately 30 years.

2. LOCATION AND SIZE

2.1 Location:

The MLS Type IV Landfill is located in Montgomery County, Texas. The facility abuts the west side of North Walker Road about 1.4 miles north of the intersection of North Walker Road and State Highway (SH) 105 and has a physical address of 3761 North Walker Road. Refer to the General Location Map, Attachment 1 to this Application Summary.

2.2 Elevation and Coordinates of Permanent Benchmark:

Latitude:	N 30° 21' 03"
Longitude:	W 95° 17' 10"
Elevation:	204.18 msl

2.3 Size:

The total area within the permit boundary under the proposed permit is approximately 473.0 acres.

3. FACILITY DESIGN, CONSTRUCTION, AND OPERATIONS

3.1 Facilities Authorized:

The permittee will be authorized to operate the facility subject to the limitations contained in the permit. All waste disposal operations will be limited to the units and other features identified in the Site Development Plan and the Site Operating Plan as follows.

3.1.1 A Type IV municipal solid waste landfill facility with a single waste disposal cell footprint of approximately 207.1 acres. The landfill will have a below grade excavation of approximately 47 feet to an elevation of 167.4 feet above msl with continuous area filling with waste, and above grade aerial fill of approximately 188 feet to a top of final cover elevation of 408.3 feet above msl. The proposed facility will contain a gatehouse, perimeter drainage ditches and dikes, four sedimentation/detention basins, segments of Lawrence Creek, West Fork of Spring Branch and a tributary of Lawrence Creek, 29 shallow groundwater monitoring wells and 18 deep groundwater monitoring wells, 17 gas monitoring probes, sidewall clay plug, clay liner system and final cover system.

- 3.1.2 Access roads, temporary and permanent drainage features, disposal trenches, all appurtenances, and other improvements shall be built, operated, and/or maintained in accordance with the conditions of the permit, Part I - IV of the permit application, and commission regulations. The facility shall be managed in a manner to protect human health and the environment.

4. LAND USE

- 4.1 The site is located in Montgomery County near the City of Cut and Shoot, Texas and adjacent to the unincorporated community of Midway. Midway is a growing community of varying lot sizes mixed with some agricultural and timberland tracts and commercial properties primarily located along SH 105. The landfill site is about 1.4 miles north of the intersection of North Walker Road and SH 105, northeast of Cut and Shoot.
- 4.2 The proposed facility will be located in Montgomery County outside of the incorporated limits of any city and is therefore not subject to any known city zoning ordinances.
- 4.3 The surrounding land is 60% undeveloped or agricultural, 39% residential with agricultural and 1% industrial. There are an estimated 780 people residing within 1 mile of the site (based on 2000 census data, which indicates that there are 2.92 people per residence and an estimated 267 residences within one mile of the permit boundary). These people are primarily located on the east side of North Walker Road.
- 4.4 Structures located within the 1 mile boundary of the site consist of homes along roads and agricultural use structures. There are nine structures and habitable buildings within 500 feet of the permit boundary. The nearest is approximately 75 feet east of the permit boundary and about 1,150 feet east of the waste cell.

5. TRANSPORTATION AND ACCESS

- 5.1 The site is reached from an access road on property south of the proposed permit boundary. This property is owned by the permittee but is not within the permit boundary. The access road is entered from SH 105, west of North Walker Road. SH 105 is a two-lane asphalt-surfaced roadway with a 44-foot cross-section, including 12-foot travel lanes with a 10-foot shoulder in each direction. Traffic volumes were acquired by the applicant from automatic tube counters, peak-hour turning movement counts and vehicle classification counts. Based on this information, the average daily traffic volume for SH 105 in the vicinity of North Walker Road is 12,408 vehicles per day traveling in both directions. The peak flow rate for SH 105 is 1,104 vehicles per hour, based on year 2006 traffic, traveling in both directions. The landfill facility is expected to contribute approximately 454 vehicles per day in the first year of operation and increase to 608 vehicles per day in the 30<sup>th</sup> year of operation.

SH 105 will be improved in the vicinity of North Walker Road. The improvements will meet Texas Department of Transportation (TxDOT) requirements. A diagram illustrating the TxDOT-approved design is provided in Part II of the application. As noted in the Special Provisions, this road must be improved before the facility may receive waste.

- 5.2 There are no public use airports located within five miles of the site. The nearest public use airport is the Montgomery County Airport, which is located about 6.7 miles west of the site. The FAA was contacted and did not object to the location of the landfill site.

## 6. SURFACE WATER PROTECTION

### 6.1 Floodplain:

There are two areas where designated 100-year floodplain areas appear to lie within the permit boundary of the facility. These are along Lawrence Creek on the west side of the property and the West Fork of Spring Branch across the southwest corner of the property. Another area within the property boundary subject to flooding from a 100-year storm event exists along a tributary to Lawrence Creek across the northeast corner of the property. The waste cell, perimeter roads, sedimentation/detention basins and site monitoring systems are not within these areas.

### 6.2 Storm Water:

Unaffected storm water from within the footprint of the waste unit is channeled to four sedimentation/detention basins. Two of these (Basin Nos. 2 and 3) discharge to the West Fork of Spring Branch and then to the south. Basin No. 1 discharges to Lawrence Creek and then to the southeast. Basin No. 4 discharges to the tributary to Lawrence Creek, leaving the property near its northeast corner to join Lawrence Creek. This storm water re-enters the property near the northern end of its easternmost perimeter and discharges to the southeast. The entire permitted boundary discharges through six outfalls. In addition to the four described above are an outfall to the north on the northernmost perimeter and an outfall to the south near the center of the southern perimeter.

### 6.3 Contaminated Water:

Storm water that comes in contact with solid waste will be considered contaminated water. Contaminated storm water at the working face will be properly contained and managed. No contaminated water will be discharged from the site.

## 7. GROUNDWATER PROTECTION

### 7.1 Groundwater Protection:

To reduce the potential to affect groundwater at the site resulting from waste disposal operations, fill areas will be underlain by, from the subsurface up, a three-foot compacted clay layer with a hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second (cm/sec) or less and a 12-inch-thick protective cover of soil. An additional compacted clay plug will be installed on all sidewalls to protect Stratum II (the shallow water-bearing zone). This plug will be from 32.5 to 36 feet thick with a minimum hydraulic conductivity of  $5 \times 10^{-8}$  cm/sec and will be placed behind the compacted clay liner sidewall. The waste cell will have a final cover of, from the top down, a 12-inch-thick grassed erosion layer and an 18-inch thick clay infiltration barrier with a maximum hydraulic conductivity of  $1 \times 10^{-7}$  cm/sec.

7.2 Monitoring Wells:

A groundwater monitoring system will provide for early detection of potential releases from the facility in two strata, the more shallow Strata II and the deeper Strata IV. The system will consist of 29 shallow groundwater monitoring wells (in Strata II) and 18 deep groundwater monitoring wells (in Strata IV). The groundwater monitoring network will be sampled, analyzed, and monitored in accordance with the procedures in the Groundwater Sampling and Analysis Plan (Part III, Attachment 11 of the Permit Application), which is part of the facility permit.

8. CONTROL OF METHANE

8.1 Clay Liners:

The design and construction of the below grade liners, described in Section 7.1 of this Technical Summary, inhibit migration of methane gas.

8.2 Monitoring:

Landfill gas migration will be monitored around the perimeter of the facility utilizing 17 permanent landfill gas monitoring probes (LGMP). LGMPs will be installed throughout the sequence of operations at the facility whenever waste is placed within 1,000 feet of a proposed probe location. Gas monitoring will be conducted quarterly to ensure that the concentration of methane gas generated by the facility does not exceed the lower explosive limit (LEL) at the facility property boundary or 25% of the LEL in enclosed structures within the facility property boundary.

9. SITE DEVELOPMENT AND OPERATION

The Site Development Plan (SDP), Part III of the application, and Site Operating Plan (SOP), Part IV of the application, are intended to provide guidelines for facility management and operating personnel to implement, develop, and operate the solid waste management facility. The SOP is to provide an operating guide for site management to maintain the facility in compliance with the engineering design and applicable TCEQ regulations. The SDP and SOP were prepared using 30 TAC Chapter 330 regulations and will become part of the facility permit if the proposed landfill application is approved by the TCEQ.

10. PROTECTION OF ENDANGERED SPECIES

The applicant contacted both the Texas Parks and Wildlife Department and the U.S. Fish & Wildlife Service to inquire about the possibility of threatened and endangered (T&E) species within the permit boundary. These agencies had no specific information for the proposed site, but offered T&E species found in the county or nearby the proposed site. In response, the applicant contracted for a protected species site investigation. The report prepared for this investigation is provided in the application as Exhibit 3 to Appendix H in Part II. The conclusion of the report is that there are no threatened or endangered plants or animals that are likely to be affected by the proposed construction and that the property contains no critical habitat to support any endangered

plant or animal species. Procedures for protection of T&E species and migratory birds are included in the Site Operating Plan, Part IV of the application.

11. PROTECTION OF WETLANDS

Jurisdictional wetlands have been identified near Lawrence Creek, a tributary to Lawrence Creek and the West Fork of Spring Branch. The landfill cell was designed to avoid these jurisdictional wetlands. Over 20 acres of non-jurisdictional wetlands will be removed by this facility. A wetlands delineation report is provided with the application as Exhibit 1 to Appendix F in Part II.

12. FINANCIAL ASSURANCE

Authorization to operate this facility is contingent on the maintenance of financial assurance in accordance with 30 TAC Chapters 330 and 37, Financial Assurance, and the provisions contained in the permit application.

13. ATTACHMENTS

Figures from the permit application that provide illustrations of the site location, nearby land use, and site development include the following:

<u>Figure Number</u>	<u>Description</u>	<u>Location in Permit Application</u>
1-1	General Location Map	Part I, page I-2
1-2	Site Vicinity Map	Part I, page I-3
1-3	Site Location Map	Part I, page I-5
1-5	Land Use Map	Part I, page I-12
1-6	Adjacent Landowners Map	Part I, page I-15
2-4	General Topographic Map	Part I, page I-28
	Various Site Layout Plans	Part III, Attachments 1, 2 and 3

14. ADDITIONAL INFORMATION

For information concerning the regulations covering this application, contact the Texas Commission on Environmental Quality:

Mr. Eric Beller  
MSW Permits Section, MC 124  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711  
(512) 239-1177

For more specific detailed technical information concerning any aspect of this application or to request a copy of the Site Development Plan, please contact the Applicant's Agent or the Applicant at the address provided at the beginning of this summary.

15. PUBLIC PARTICIPATION PROCESS

The process through which the public is allowed to participate in the final decision on the issuance of a permit is outlined as follows.

The TCEQ will hold a public meeting if the Executive Director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the Commission accepts formal comments on the application. There is also an informal question and answer period.

- 15.1 The TCEQ will hold a public meeting if the Executive Director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the Commission accepts formal comments on the application. There is also an informal question and answer period.
- 15.2 Technical review of the application is completed, a final draft permit is prepared, and the application is declared technically complete. Information for the application, the draft permit, the notice, and summaries are sent to the Chief Clerk's office for processing.
- 15.3 The "Notice of Application and Preliminary Decision" is sent to the applicant and published in the newspaper. This notice provides a 30-day period, from the date of publication, for the public to make comment(s) about the application or draft permit. A public meeting will be held if one is requested by a member of the legislature or if there is substantial public interest in the proposed landfill.
- 15.4 After the 30-day comment period has ended, a "Response to Comments" (RTC) is prepared for all comments received through the mail and at a public meeting. The RTC is then sent to all persons who commented on the application. Persons who receive the comments have a 30-day period after the RTC is mailed in which to request a contested case hearing.
- 15.5 After the 30-day period to request a contested case hearing is complete, the matter is placed on an agenda meeting for the TCEQ Commissioners to make a determination to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a contested case hearing.
- 15.6 A contested case hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant party(ies) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ Commissioners for consideration of issuance or denial of a permit.
- 15.7 After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 20 days after the party or the party's attorney of record is notified of the decision. The matter could be set on another agenda for consideration by the Commission, or allowed to expire by operation of law.

Technical Summary  
MSW Permit Application No. 2324  
Montgomery County  
Page 9

- 15.8 Applications for which no one requests a contested case hearing are considered uncontested matters after the 30-day comment period. The application is placed on the Executive Director's signature docket and a permit is issued. Any motion to overturn the Executive Director's decision must be filed no later than 23 days after the agency mails notice of the signed permit.







## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL  
SOLID WASTE MANAGEMENT SITE  
issued under provisions of Texas  
Health & Safety Code Ann.  
Chapter 361 (Vernon)

MSW Permit No. 2324

Name of Permittee and Site Owner: Montgomery Landfill Solutions, L.P.  
13921 Hwy 105 West, Suite 137  
Conroe, TX 77304

Facility Name: MLS Type IV Landfill

Classification of Site: Type IV Municipal Solid Waste Management Facility

The permittee is authorized to store, process, and dispose of wastes in accordance with the limitations, requirements, and other conditions set forth herein. This amended permit is granted subject to the rules and orders of the Commission and laws of the state of Texas and it replaces any previously issued permit. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality. This permit will be valid until canceled, amended, or revoked by the Commission.

APPROVED, ISSUED AND EFFECTIVE in accordance with 30 Texas Administrative Code Chapter 330.

ISSUED DATE:

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For the Commission

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Montgomery County  
MLS Type IV Landfill  
MSW Permit No. 2324

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PART NO. 2

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PART NO. 1

I. Size and Location of Facility

- A. The MLS Type IV Landfill is located in Montgomery County, Texas about 1.4 miles north of the intersection of North Walker Road and State Highway (SH) 105 with a physical address of 3761 North Walker Road..
- B. The legal description is contained in Part I of the application found in Attachment A of this permit.
- C. Coordinates and Elevation of Site Permanent Benchmark:

Latitude:	N 30° 21' 03"
Longitude:	W 95° 17' 10"
Elevation:	204.18 feet above mean sea level (msl)

II. Facilities and Operations Authorized

A. Days and Hours of Operation

The operating hours at this municipal solid waste facility shall be from 5:00 a.m. to 9:00 p.m. on Monday through Saturday. Waste acceptance hours for this facility shall be from 7:00 a.m. to 7:00 p.m. on Monday through Saturday. Heavy equipment shall not operate outside of the facility operating hours.

B. Wastes Authorized at This Facility

Solid waste to be disposed of will primarily consist of municipal solid waste resulting from, or incidental to, construction, demolition and groundskeeping activities, including brush, construction/demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free of putrescible and free of household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer/recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 Texas Administrative Code (TAC) Section (§) 330.5(e). The landfill is prohibited to accept waste materials other than those mentioned above, and those waste streams that are expressly prohibited by 30 TAC Chapter 330, including but not limited to hazardous waste, Class 1 non-hazardous industrial waste, Class 2 non-hazardous industrial waste, Class 3 non-hazardous industrial waste, regulated radioactive waste, waste affected by regulated polychlorinated biphenyls, putrescible waste, household waste, liquid waste, water and wastewater treatment sludge, grease/grit trap wastes, special wastes, and waste materials that may cause an odor or nuisance or that may require excessive or special onsite procedures and handling requirements.

D. Waste Acceptance Rate

Authorized solid wastes will be accepted at an anticipated initial average rate of approximately 858,000 tons-per-year (approximately 3,000 tons-per-day based on 312 days-per-year of operation) to a final average rate of approximately 1,145,000 tons-per-year (approximately 4,000 tons-per-day 312 days-per-year of operation) which results in an estimated life of approximately 30 years. The actual yearly waste acceptance rate is a rolling quantity based on the sum of the previous four quarters of waste acceptance.

E. Waste Volume Available for Disposal

The total gross in-place (waste and cover) capacity is approximately 43,995,000 cubic yards, as provided in Part III, Section 5.0, page III-8 of the application found in Attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type IV municipal solid waste landfill that utilizes area fill with above and below grade filling subject to the limitations contained herein. All waste disposal activities subject to permitting are to be confined to the following facilities, which shall include disposal units, structures, appurtenances, or improvements: access roads, dikes, berms and temporary drainage channels, permanent drainage structures, detention ponds, landfill gas management system, contaminated water management system, final cover, groundwater monitoring system, landfill liner system, and other improvements.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with Texas Commission on Environmental Quality (TCEQ) permit amendment or modification rules, 30 TAC Chapter 305 and 30 TAC Chapter 330.

III. Facility Design, Construction, and Operation

- A. Facility design, construction, and operation and/or maintenance must comply with the provisions of this permit; Commission Rules, including 30 TAC §§330.50 through 330.65 (relating to Permit Procedures), §§330.111 through 330.135 (relating to Operational Standards for Solid Waste Land Disposal Sites), §§330.138 through 330.139 (relating to Operational Standards for Solid Waste Land Disposal Sites), §330.200(e) (relating to Groundwater Protection Design and Operation Design Criteria for Type IV landfills), §330.203(h) (relating to additional provisions, at the discretion of the executive director for Type IV landfill excavations that extend below the seasonal high water table), §§330.204 through 330.206 (relating to Groundwater Protection Design and Operation), §330.239 (relating to Groundwater Monitoring at Type IV Landfills), §330.251 (relating to Closure Requirements for Municipal Solid Waste Landfill Units That Stop Receiving Waste Prior to October 9, 1991 and Municipal Solid Waste Sites [including Type IV facilities]), special provisions contained in this permit; and Parts I-IV of the application found in Attachment A of this permit, and shall be managed in a manner to protect human health and the environment.

- B. The entire waste management facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the point of compliance as defined in 30 TAC §330.2 and to prevent inundation or discharge from the areas surrounding the facility components. Each receiving, storage, processing, and disposal area shall have a containment system that will collect spills and incidental precipitation in such a manner as to:
1. preclude the release of any contaminated runoff and spills;
  2. prevent washout of any waste by a 100-year storm; and
  3. prevent run-on into the disposal areas from off-site areas.
- C. The site shall be designed and operated so as not to cause a violation of:
1. the requirements of the Texas Water Code §26.121;
  2. any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
  3. the requirements under the Federal Clean Water Act §404, as amended; and
  4. any requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act §208 or §319, as amended.
- D. Contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §330.55(b)(6), 30 TAC §§330.56(o)(1) through (4), 30 TAC §330.139, and in accordance with Part III, Attachment 15 of the application found in Attachment A of this permit. Other methods may be considered for approval as a modification to this permit.
- E. Best management practices for temporary erosion and sedimentation control shall remain in place until sufficient vegetative cover has been established to control and mitigate erosion on areas having final cover. Vegetative cover will be monitored and maintained throughout the post-closure care period in accordance with Part III Attachment 13 of the application found in Attachment A of this permit.
- F. Storm water runoff from the active portion of the landfill shall be managed in accordance with 30 TAC §§330.55(b)(3) and 330.133(b), and as described in Part III of the application found in Attachment A of this permit.
- G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. The permittee shall comply with 30 TAC §330.52(b)(9) and with descriptions provided in Part I of the application found in Attachment A of this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of Commission rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV of the application found

in Attachment A of this permit. All facility employees and other persons involved in facility operations shall be appropriately trained.

- H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to aircraft operations will require prompt mitigation actions.

#### IV. Financial Assurance

- A. General. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with Subchapter K of 30 TAC Chapter 330 and 30 TAC Chapter 37.
- B. Closure Care Cost Estimates. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of closure of the landfill in accordance with 30 TAC §§330.253(d)(6) and 330.281 for the initial year closure cost estimate and within 12 months after the date of the pre-opening inspection, the permittee shall provide financial assurance instrument(s) for the largest area closure cost estimate. The initial year closure cost estimate of \$1,543,042 and the largest area closure cost estimate of \$5,848,534, both in 2004 dollars, are based on estimates as described in Part III Attachment 8 and Attachment 12 of the application found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2004 until the year the permit is issued.
- C. Post-Closure Care Cost Estimates. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount for the entire landfill facility. The post-closure care cost estimate of \$583,879 in 2004 dollars is based on estimates as described in Part III Attachment 8 and Attachment 13 of the application found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2004 until the year the permit is issued.
- D. The owner and/or operator shall annually adjust closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §§330.281 and 330.283, as applicable.
- E. Modifications. If the facility closure and/or post-closure care plan is modified in accordance with 30 TAC §305.70, the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.253(d)(6), 330.254(b)(3)(D), 330.281, and 330.283, as applicable. The amount of the financial assurance mechanism shall be adjusted within 45 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit shall be initiated as a modification within 30 days after the effective date of the new regulation.

#### V. Facility Closure

Closure of the facility shall commence:

- A. upon completion of the disposal operations where the site is completely filled in accordance with Part III Attachment 7 of the application found in Attachment A of this permit;
- B. for failure to comply with the terms and conditions of this permit or violation of state or federal regulation upon direction by the Executive Director of the TCEQ, who is authorized to issue emergency orders to the permittee in accordance with §§5.501 and 5.512 of the Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;
- C. upon abandonment of the site or rendering the site unusable;
- D. for failure to secure and maintain an adequate bond or other financial assurance as required;  
or
- E. upon notification to the TCEQ by the permittee that the landfill will cease to accept waste and no longer operate at any time before the site is filled to capacity.

#### VI. Site Completion and Closure

The landfill shall be completed and closed in accordance with 30 TAC §330.250 and the applicable portions of 30 TAC §§330.251 through 330.256. Upon closure, the permittee shall submit to the Executive Director documentation of closure as set out in 30 TAC §330.253. Post-closure care and maintenance shall be conducted in accordance with Part III Attachment 13 of the application found in Attachment A of this permit, for a period of 5 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.254(a).

#### VII. Standard Permit Conditions

- A. Parts I through IV, as described in 30 TAC §330.51(a), which comprise the Permit Application for MSW Permit No. 2324 are hereby made a part of this permit as Part No. 2: Attachment A. The permittee shall maintain Parts I through IV and Part V, as described in 30 TAC §330.51(a), at the facility and make them available for inspection by TCEQ personnel. The contents of Part III of Attachment A of this permit shall be known as the "Approved Site Development Plan" in accordance with 30 TAC §§330.54 and 330.55. The contents of Part IV of Attachment A of this permit shall be known as the "Approved Site Operating Plan" in accordance with 30 TAC §§330.57 and 330.114.
- B. Part No. 3: Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- C. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act and is grounds for an enforcement action, revocation, or suspension.

- D. A preconstruction conference shall be held pursuant to 30 TAC §330.64(c) within 90 days after issuance of the permit. After initial construction of the landfill a pre-opening inspection will be held in accordance with 30 TAC §330.64(d) before acceptance of waste. Additional preconstruction conferences may be held prior to the opening of the facility.
- E. A pre-opening inspection shall be held pursuant to 30 TAC §330.64(d).
- F. The permittee shall monitor sediment accumulations in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain the design flow.
- G. The tracking of mud off-site onto any public right-of-way shall be minimized.
- H. In accordance with 30 TAC §330.7(a), the permittee shall record in the Deed Records of Montgomery County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.7(b).
- I. Weekly cover of the waste fill areas shall be performed with clean soil that has not been in contact with waste or with an alternate daily cover which has been approved in accordance with 30 TAC §§330.133(c) and 305.70. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped from material that has been used as weekly cover or that contains waste.
- J. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. The permittee shall maintain erosion and sedimentation controls in a functional condition until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- K. In complying with the requirements of 30 TAC §330.123, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 30 days after the permit has been issued.
- L. The permittee shall retain the right of entry onto the site until the end of the Post-Closure Care Period as required by 30 TAC §330.62(b).
- M. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the Post-Closure Care Period as required by §361.032 of the Health and Safety Code.



- N. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- O. Regardless of the specific design contained in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the regulations, and as required by local, state, and federal laws or ordinances.
- P. If differences arise between these permit provisions and incorporated Parts I-IV of Attachment A of this permit, these Permit Provisions shall prevail.
- Q. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116.
- R. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the state of Texas TPDES requirements as applicable.

#### VIII. Incorporated Regulatory Requirements

- A. To the extent applicable, the requirements of 30 TAC Chapters 37, 281, 305, and 330 are adopted by reference and are hereby made provisions and conditions of this permit.
- B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits before beginning any on-site improvements or construction approved by this permit.

#### IX. Special Provisions

The applicant shall not accept waste at the facility until all improvements to North Walker Road and State Highway 105, as described in the application, are complete.

#### PART NO. 2

##### Attachment A

Parts I through IV of the permit application effective with the date on the permit.

#### PART NO. 3

##### Attachment B

Minor Amendments, Modifications, and Corrections may be issued for MSW Permit No. 2324.

The minor amendment, modification, or correction document prepared and executed with an approval date shall be attached to this attachment. There is no limitation on the number of these documents that may be included in Attachment B of this permit.

**Attachment B – Executive  
Director’s First Amended Response  
to Public Comment**

TCEQ PROPOSED PERMIT NO. 2324

2009 FEB 13 PM 3: 51

APPLICATION BY	§	BEFORE THE
	§	
MONTGOMERY LANDFILL	§	TEXAS COMMISSION ON
	§	
SOLUTIONS, L.P.	§	ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

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EXECUTIVE DIRECTOR'S FIRST AMENDED RESPONSE TO PUBLIC COMMENT

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The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this First Amended Response to Public Comment (Response) on the application by Montgomery Landfill Solutions, L.P. (Applicant) for Municipal Solid Waste (MSW) Permit Number 2324 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters and comments at the public meetings.

The following people provided written or oral comments at the public meeting held on April 10, 2008:

Dana Abernathy	Luine Hancock, on behalf of
Corallyn Berger	State Senator Robert Nickols
Keith Berger	Sanjuana Hernadez
Gary Biddle	Hon. Ruben Hope, Jr., State
Cheryl Burks	Representative District 16
Ken Burling	Thornton Ireland
Vallye W. Chandler	Chrispen Johnson
Sherman J. Chenier-Cleveland	Janes M. Lamendolis
James Clark	Monte Harris Lane
Byard Crandall	Susan Lane
Linda Kay Crandall	Christine Ludwig
Brandon Creighton, State	Barbara Mayeux
Representative District 16	Matt McLeane
Jim Dawson	Rosa Morelos
Elizabeth Dotson	Trudilee O'Neil
Erin Dotson	Dr. Dellanira Rangel
Louis Aaron Dotson	Jennifer Real
Ralph Drinkwater Floyd	Hon. Ed Rinehart, Montgomery
Sheila Freeman	County Commissioner Pct.
	No. 4

Lorraine Romero  
David Rondon  
Travis Selph  
Anita Severa  
Melvin Sharpe  
Vicente V. Sifuentes  
Leah Smith  
Linda Standley  
Linda Stegenga  
Rhonda Tate

Donna Vanermoleni  
Janice Walkens  
Mike Walton  
Mike Ward  
Cody Weaver  
Randall Weaver  
Karen J. Welch  
Jay M. Wright  
Melba York

The following people provided written or oral comments at the public meeting held on March 10, 2005:

Paul Bacque  
Johnny and Karen Beal  
Phillip Branch  
Ken Burling  
Charles Buzbee  
Mary Carter  
Elvira and Yolanda Cervantz  
Linda Collins  
Tina Collins  
Penny Cooper  
Terry Dazart  
Jim Dawson  
Deborah K. Doran  
Joe Esposito  
Shelia Freeman  
Duane Hamilton  
Mary Hartt  
Laurie Headings  
David Henderson  
Tony Herrin and Pattie McGee  
Claudia Hubbard  
Ernest Kanak, Jr.  
Mary Lou Kirves  
Wayne Kocurek  
Monte Lane  
Phillip Lindsey  
Barbara Mayeux

Barbara Meche  
Frankie Milley  
Lee and Kelli Moulder  
Shelia and Albert Nelson  
Marigrace O'Neil  
Greg Poole  
David Rendon  
Hon. Ed Rinehart, Montgomery  
County Commissioner Pct.  
No. 4  
The Hon. Alan B. Sadler,  
Montgomery County Judge  
Melvin Sharpe  
James Shropshire  
John and Leah Smith  
Robert Smith  
Linda Standley  
Linda Stegenga  
David Tate  
Rhonda Tate  
Billy Wagnon  
Michael Walton  
Marcia Walton  
Janice Watkins  
Karen Welch  
Jacqueline Woychesin  
Ladgie Zotyka, Jr.

The following people provided written or oral comments at the public meeting held on August 9, 2004:

Jeff Allman

Enedina Alvarez

Willie Mae Atkinson  
Paul Bacque  
Darryl Barnhill  
Martha Barr  
Thomas J. Beers  
Denise Bell  
Charles Brewer  
Ken Burling  
Lennice Cargill  
Diannia Carter  
William Carter  
Amarian Castillo  
Jenise Cemino  
Phillip Cemino  
Vallye W. Chandler  
Ann Cheatham  
Patricia Clark  
Evelyn A. Collins  
Doug Crofton  
Patricia Crofton  
David Lynn Dauzart  
Terry Dauzart  
Jim Dawson  
Barbara Dowden  
David Dowden  
Dean R. Dusk  
Janice Ferrer  
Pat Ferrer  
Maria Figueroa  
Charles Fitzgerald  
Aaron Flores  
Claudia Flores  
Janet Flores  
Edgar Folney  
Tanci Foster  
Bill Franks  
Susan Franks  
Gabriela Gonzalez  
Jackalyne Gonzalez  
Jessica Gonzalez  
Juana Gonzalez  
Judith Gonzalez  
Kenny Hamby  
Duane E. Hamilton  
Sandy Hamilton  
Steve Hamilton

Tracy Hamilton  
Mary Jennings Hartt  
Hon. Ruben Hope, Jr., State  
Representative District 16  
Judith Home  
Claudia Hubbard  
Mary Hutseal  
Robert Hutseal  
Gloria Jensen  
Devin Kaatz  
Minnie Kaatz  
Normane Kaatz  
Ernest Kanak, Jr.  
Shelagh Kasinger  
Mary Lou Kirves  
Joseph Kocurek  
Wayne Kocurek  
Alexandria Lacina  
Antonia Lacina  
Tasha Lacina  
Frank Lee  
Leona Lee  
Melody Logan  
Christine Ludwig  
Angus Lupton  
Reverend Jim Luton  
Ronald Maffet  
Susana Magana  
Steven Matthews  
Barbara Mayeux  
Travis Mayeux  
Barbara Meche  
Jose Mejia  
Frankie Milley  
Francisco Moctezuma  
Alisa Murphy  
Ellen Nelson  
Dennis O'Neil  
Marigrace O'Neil  
Trudilee O'Neil  
R. M. Palmer  
Carol Parten  
Edward Parten  
Billy Pickering  
Deborrah Pickering  
Greg Poole

Christian Ramirez  
Francisco Ramirez  
Isabel Ramirez  
Karen Ramirez  
Oscar Ramirez  
Danielle Reich  
Louis Reiszner  
Sandy Relander  
Beth Reneau  
James Reneau  
Kyle Reneau  
Leona Reneau  
Link Reneau  
Nora Renteria  
Normo Reyes  
Hon. Ed Rinehart, Montgomery  
County Commissioner Pct.  
No. 4  
Carla Robles  
Pedro Rosales  
Pedro Rosales, Jr.  
Refugia Rosales  
Hon. Alan B. Sadler,  
Montgomery County Judge  
Jack L. Safford  
Bob Sasser  
Lynda Sasser  
Travis Selph  
Anita Severa

Melvin Sharpe  
Paul Simmons  
Arlinda Smith  
Billy L. Smith  
Cassandra Smith  
Jaren Smith  
Logann Smith  
Leah D. Smith  
Linda Standley  
Linda K. Stegenga  
Nancy Steward  
David Tate  
Rhonda S. Tate  
Debra Teekamp  
Vicki Thompson  
James Trevathan  
Frances Underwood  
Daniel P. Vargas  
Faustino Dino Villarreal  
Michael Walton  
Clifford Welch  
Joann Welch  
Karen J. Welch  
Thomas Welch  
Sabrina Westerfeld  
Charlotte Williams  
Margie Wood  
Jacqueline Woychesin  
Paul Zylma

The following people submitted comment letters to the TCEQ Office of the Chief Clerk from March 11, 2005 to April 11, 2008:

Mary W. Carter, on behalf of  
Citizens Against Mont-  
gomery Landfill (CAML)  
Daniel Heil  
Jerri Heil  
Hon. Ruben Hope, Jr., State  
Representative District 16  
Thornton Ireland  
Mary Lou Kirves  
Ronald Maffett  
Patsy Matthews  
Lorraine & Mikel D. Morris

The Hon. Robert L. Nichols,  
State Senator  
R.M. Palmer, International Paper  
Real Estate Division (IPRC)  
Theresa Portillo  
Carolyn Sue Rains  
Lawrence A. Rains  
Hon. Ed. Rinehart, Montgomery  
County Commissioner Pct. 4  
John Romero Jr.  
Lorraine Romero  
Hon. Alan B. Sadler,  
Montgomery County Judge

Alan P. Schuler  
Allen Selph  
Joyce Selph  
Ruben Travis Selph  
Travis Selph

Linda K. Stegenga  
James E. Wakinshaw  
Michael David Walton & Family  
Charlotte A. Williams  
James L. Williams

The following people submitted individual comment letters or added individualized comments to form letters sent to the TCEQ Office of the Chief Clerk from April 21, 2004 to March 10, 2005:

Melissa Barton  
Samantha Baumgarten  
Phillip Branch  
Mary W. Carter, on behalf of  
Citizens Against Mont-  
gomery Landfill (CAML)  
Robert W. Collins  
Leon W. Cubillas, Splendora  
Independent School District  
(Splendora I.S.D.)  
Jim Dawson  
Deborah K. Doran  
Kenneth and Mary Everitt  
Mel Fife  
Dan Glassel  
Thornton Ireland  
Mary Lou Kirves  
Barbara Mayeux  
Shelia and Albert Nelson  
R.M. Palmer  
Jason Reaves  
Hon. Ed. Rinehart, Montgomery  
County Commissioner Pct. 4  
Carla Robles

The Hon. Alan B. Sadler,  
Montgomery County Judge  
Jack L. Safford  
Lynda and Bob Sasser  
Ruben Travis Selph  
Travis Selph  
Melvin Sharpe  
John B. Smith  
Leah D. Smith  
Robert C. Smith  
Jack Spera  
Jan Stallworth  
Linda Standley  
David Stegenga  
Linda K. Stegenga  
Donald J. Stockton, Conroe  
Independent School District  
(Conroe I.S.D.)  
Pete Stone  
David Tate  
John Tate  
Rhonda S. Tate  
Donald G. Williams  
James and Charlotte Williams  
Paul R. Zylman

The following people submitted an identical form letter to the TCEQ Office of the Chief Clerk from March 11, 2005 to April 11, 2008 which contained additional comments. While their additional comments will be addressed separately, with regard to responses to the general comments contained in the form letter these people will be known as Group 1:

Roger Adams  
Ruth Allen  
Stephen Barfield  
Johnny Beall

Karen Beall  
Dorothy Bell  
Jason Bellini  
Kimberly Bellini

Mrs. R.A. Benedict  
Ralph E. Benedict II  
Bonnie Braswell  
Charles E. Buzbee  
Marie E. Buzbee  
Dennis R. Cartwright  
Rosemary Cartwright  
James E. Clanton  
Floyd C. Collins  
Tina Collins  
Joshua Davis  
Ken Van Dine  
Alberto Enriquez  
Belinda Faulkner  
Lisa & Venessa Ford  
Terri Gandy  
Sherry Glaze  
Glenela Godejohn  
Maurice Godejohn  
Steven Gothard  
Mark Grimes  
Martha Guibeaux  
Kenny Hamby  
Sheila Hardrick  
Prescila Harris  
Thomas Harrison  
Deborah Heuermann  
Amber Hunt  
Jimmy Hunt  
Crystal Kelsoe  
Ed Kirkland  
Michael & Bright LeMaster  
Floralee Lovell  
James Lovell  
David H. Ludwig, Jr.  
Charles W. Lyle  
Mark Matheny  
Bob McDaniel

Carl & Linda McLeod  
Linda Middleton  
Luis Angel Nava  
Albert A. Nelson  
Shelia Nelson  
Leda O'Neil  
Linda Ott  
Sylvia Padilla  
Lisa Reasor  
Terry E. Rollins  
Delores Roost  
J. Sandles  
David W. Sargent, Jr.  
James Singleton  
Ciara Smalling  
Sherry Smalling  
John & Leah Smith  
Nikki Somplasky  
George Standley  
Linda Standley  
Ricky Standley  
Joseph Tanseu  
David Tate  
Rhonda S. Tate  
Jason Turner  
Dan Wallace  
Shaun Wallace  
William Waters  
Cynthia Watford  
Shawn Watford  
James Watkins  
James R. Watkins  
Angela Welch  
Dale Welch  
Karen J. Weich  
Ester Williams  
Julianne Young

The following people submitted an identical from letter to the TCEQ Office of the Chief Clerk from April 21, 2004 to March 10, 2005, and will be known as **Group 2**:

Kimmy Abramson  
Heather Adams  
Lori Adams  
Richard J. Adams, Jr.

Jennifer Adkins  
Maria I. Aguilar  
Allen Alexander  
Leilani Allen



Ruth A. Allen  
Jeff Allman  
Katrina Alverdez  
Janet Anderson  
Ron Armacost  
Charles Armstrong  
Pamela Armstrong  
Ed Arnold  
Tara Arnold  
Elvio Arrieta  
Deana Atchley  
Matthew Atchley  
Brenda Atkinson  
Raymond Atkinson  
Richard Atkinson  
Rodney Atkinson  
Valerie Atkinson  
Willie Mae Atkinson  
Shane Baker  
Martha Diane Ballard  
William F. Ballard  
Elizabeth Barbosa  
Karen Barfield  
Stephen Barfield  
David A. Barge  
Rogelio Baroenus  
Jessee Barrera  
Sergio Barrera  
Paul Barretto  
Melissa Barton  
Walter C. Bastedo  
Jeremy Beall  
Johnny Beall  
Karen Beall  
Jeb Becker  
Mary Beckley  
Bonnie Bell  
Debbie Bell  
Denice Bell  
Jeff Bell  
Josephine Bell  
Richard A. Bell  
Steve Bell  
Jason Bellini  
Kim Bellini  
Corallyn Berger

Eric Bettis  
Charles Bishop  
Jackie Bishop  
Margaret Blackburn  
Betty Blackman  
Helen Blackman  
Jerry Blackman  
W.L. Blackman  
Sandra Blackmon  
Terry Blackmon  
Magnolia C. Boehm  
Rebecca M. Boles  
Linda S. Bone  
Randy L. Bone  
Verda Borton  
Alicia Borunda  
Donald Bowers  
Richard L. Bowers  
Rodney Bowers  
Larry W. Brooks, Jr.  
Dorothy M. Brown  
Lisa S. Brown  
Pam Brown  
Rhonda Brown  
Rick Brown  
Ron Brown  
Stephen R. Brown  
Terri Brown  
Mitchell Bruce  
Tammy Bryant  
Cheryl J. Burks  
Ken Burling  
Louiza F. Bustamante  
Marie Buzbee  
Carlos Cabrera  
Rachel Callaway  
Delano E. Canales  
Ted Cantu  
Sharene Carr  
Wes Carr  
Robert Casey  
Louis Castanon  
Irma Rodriguez Causey  
Jenise Cemino  
Phillip Cemino  
Stephanie Cemino

Stephanie Cemino  
Francisco Cervantez  
Yolanda Cervantez  
Agustin Chacon  
Vallye W. Chandler  
Ann M. Cheatham  
Cynthia Chenault  
David E. Chirstensen  
Penny Chunn  
Pat Clark  
Paul Clark  
John Clement  
Sue Ellen Clement  
Stephen Closson  
Bill Cobler  
Myla Cobler  
James Coker  
John W. Coker  
Evelyn A. Collins  
Rober W. Collins  
Fred Colston III  
Mary Lee Colston  
Jessie M. Cooper  
Brian Cormier  
Freddie E. Couey  
Marion C. Couey  
Crystal Hogan Craft  
Michael Craft  
Mark Cremeans  
Stacy Cremeans  
Sam Croce  
Stephen R. Daughdrill  
Terry Dauzart  
Marilee Deckerr  
Arelio De Leon  
Roger DeLong  
David Dempsey  
David Deschner  
Heather Dodson  
Sonny Donaldson  
Deborah K. Doran  
Ivy Dorsey  
Barbara Dowden  
David Dowden  
L.V. Dowden  
Paul Dowden

Leroy Dudley  
Hattie Dungan  
Dean Duskin  
Margarett Duskin  
Janice Edwards  
Cynthia Enloe  
James Ernst  
Andy Esparza  
Leanna Evans  
K. R. Everitt  
Mary Everitt  
Karen Faulk  
Janice Ferrer  
William P. Ferrer  
Brian Fife  
Jon Fife  
Mel Fife  
Dorothy Fitch  
Edward Fitch  
Marietta Flanagan  
Bonnie Foster  
Lewis Foster  
James E. Francis  
James J. Frank  
Susan Franks  
William Franks  
Krystle Fudge  
Miguel Fuentes  
Margaret Fuller  
Barbara J. Gandy  
Robert J. Gandy  
Rufina Garay  
Jesus Garcia  
Dana Garza  
Reese Garza  
Sidney Gaylord  
Lan O. Gayo  
Earl E. Gelston  
Patricia Giddings  
Gisa R. Giles  
Linda L. Goebel  
Jerry Gonzales  
Maria T. Gonzales  
Bonifacio Gonzalez  
Gabriela Gonzalez  
Juana Gonzalez

Gabe Grant  
Betty Grantham  
William Grantham  
Betty Gregg  
Fred Gregg  
Deborah Gregory  
Juanita Gregory  
Mark A. Gregory  
Mike L. Gregory  
Norma Gregory  
Ozzie Gregory  
Sue Griffin  
Billy W. Grimes, Sr.  
Nancy J. Grimes  
Bobbie R. Groenhof  
R. P. Groenhof  
Randall Gross  
Graciela Guerrero  
Timmy Guy  
Diane Guynes  
Chris Haesche  
Ken Hague  
Evan Hahn  
Barbara Hales  
Clyde Wayne Hales  
Donald J. Hales  
Ernie Hales  
James Hales  
Judy Hales  
Brandon Hall  
Suzanne Hansen  
Arthur & Trey Harris, III  
Ken Harris  
Wynne Harris  
Lana Harrison  
Mary M. Jennings Hartt  
Laurie Headings  
Ronald Headings  
Daniel Heil  
Michelle Heise  
Margaret Helton  
Elizabeth A. Herbstritt  
Maritza E. Hernandez  
Melanie Hernandez  
Ray Herrin  
Tony Herrin

James A. Herring  
Sam Hickmon  
Susan Hickmon  
Dewana Higgins  
Jamie Higgins  
Margaret Hight  
Chris Hightower  
Beverly Hinds  
Russell Hinds  
Ever Hinojosa  
Dorthy Hinsley  
Clorinda Hogan  
James Hogan  
Jesse L. Hogan  
Hayden Hood  
Pamela Hood  
Claudia Hubbard  
Dorthy Hudson  
Early Hudson  
Tiffaney Hughbanks  
Larry Hughes  
Lizzie Hulsey  
Ralph Hunter  
John R. Hutchinson  
Randall Hyman  
Stephanie Hyman  
Thornton E. Ireland, Jr.  
Bobbie D. Irwin  
Donna Isbell  
Drexel R. Isbell  
Lennette Isbell  
Edgar Eugene Jackson  
Tina Jackson  
Rhonda Janosec  
Tommy Jensen  
Connie Jimenez  
Francisco Jimenez  
Charlie Johnson  
Chrispen L. Johnson  
Darrell Johnson  
George Johnson  
Phillip Johnson  
Raymond Johnson  
Steven Johnson  
Dottie Johnson  
Joe Johnson

Allen Jones  
Christine Jones  
Dorence Jones  
Janet Jones  
John E. Jones  
Laura Jones  
Mark Jones  
Virginia Jones  
John E. Jordan  
Brenda S. Jorgensen  
Rene Sommer Kay  
Anthony Keener  
Darla Keener  
Donald Keener  
Dustin Keener  
Mart Keltch  
Patty Keltch  
Louise Kelly  
Larry Kennedy  
Wayne Killebrew  
Malia King  
Laurie Kirkland  
Mary Lou Kirves  
Randy Kitchens  
Christi Kwiatkowski  
Kenneth Kwiatkowski  
Mattie L. Lambert  
James Lamendola  
Susan M. Lamendola  
Jerry Lawrence  
Randell Le Maire  
Librado Leal  
Sheila Legg  
Bright LeMaster  
Michael J. LeMaster  
Robert Lewellen  
Elise Lewis  
Leonard Ray Lewis  
Pattie Little  
Joey Littlefair  
Tommy Littleford  
Jose Lopez  
Norma Kay Lord  
Johnny Love  
Joyce Loveless  
Christine Ludwig

Billy Lukasheay, Jr.  
Johnny F. Lukasheay  
Pat Lukasheay  
David Lynch  
Mary E. Lynch  
Nonnie Maffett  
Ron Maffett  
G. Mageno  
Paula J. Mann  
Donald Mapston  
Linda Marquardt  
C. Andrew Martin  
Belinda Martin  
Mark Matheny  
Annie Matthews  
Bobby Lee Matthews  
Bobby Lee Matthews, Jr.  
Esmeralda McCleane  
Matt McCleane  
Amber McClelland  
Ashley McClelland  
Lisa McCloy  
Johnny R. McDaniel  
Leonard McDonald  
Sandra J. McDonald  
Christopher T. McElroy  
Pattie McGee  
Mike McGilvrey  
Patrick McGinty  
April McHenry  
Dennis McNabb  
Barbra Meche  
Aida Medinilla  
Monique E. Medrano  
Janice Mendoza  
Maria Mejia  
Debbie Milder  
Mike Milder  
Joe Miller  
Stefanie Miller  
Peggy Mimier  
Maria Miramontez  
Pauline Moore  
Shirley Moore  
Marcelino Moreno, Jr.  
Sandra Moreno

B. K. Morgan  
Linda Morgan  
Kay Bell Mudd  
Patty Mullinax  
Richard E. Mullinax  
Melinda Mulock  
Anita Murphy  
Janet Musachio  
Gordon Myers  
Crystal Neal  
Thomas Neitzel  
Ellen Nelson  
Sharon P. Nelson  
Shelia Nelson  
James Newton  
Deborah Noble  
George D. Noble  
Leslie K. Norman  
Bobby Novakosky  
Julia Novakosky  
Sandra Nuber  
Glyn O'Briant  
Monica Ogilvie  
Dennis O'Malley  
Marigrace O'Neil  
Trudilee O'Neil  
Deborah A. Ortega  
Hilaria Ortega  
Richard Ortega  
Samantha Ortega  
Judith O'Toole  
Ray Overton  
Adelle Parshall  
Ric Parsley  
Gladys Perez  
Chris Perry  
Joyce Peterson  
Mary Phillips  
Billy Pickering  
Deborrah Pickering  
Barney Pierce  
Sefronia Pittman  
Mark E. Plank  
Cathrin M. Plaster  
Homer R. Plaster  
Ricky Plummer

Gwyneth Poole  
Thomas G. Poole  
Melanie Porrovecchio  
Charles R. Powell  
Susan Powell  
Skip Pratt  
L. A. Rains  
Luciano Ramirez  
Kevin Reece  
Paul Reich  
Louis Reiszner  
Jose A. Reyes  
Clelia Reyna  
Julie Rice  
Anthony Richardson  
Wendy Richardson  
David Rickard  
Robbin Rickard  
Clara Riggins  
Larry Riggins  
Priscilla Rios  
Michael H. Roberts  
Karen Robinson  
Thomas Robinson  
Mariad Robledo  
Elvira Rodriguez  
Billy Rogacki  
Eugene H. Rogacki  
Frances H. Rogacki  
Agnes and Eddie E Rogers  
Bobby & Faith Rogers  
Shelly Rogers  
Joyce Roming  
Tom D. Romig  
Daniel Rosales  
Elizabeth Rosales  
Fernando Rosales  
Mary Rosales  
Pedro Rosales  
Refugia Rosales  
Hector & Victoria Rosas  
John Russell  
John L. Safford  
Scott Sain  
Luke Saldana  
Diana Salinas

Kerri Sample  
Maria Santoyo  
Rito Santoyo  
Loran Schmidt  
Robert K. Schrupp  
Ruth A. Schrupp  
Angie Seals  
Jason Sebree  
Robert O. Sebree  
Joyce Selph  
Lyndle Selph  
R. T. Selph  
Melvin Sharpe  
Tamara Sherrouse  
Benjamin Shields  
Joe Shivers, Jr.  
Michele Shrive  
L. Shummay  
Sherry Smalling  
Cassandra Smith  
John B. Smith  
Leah D. Smith  
Novel Snider  
Kevin Soeder  
Maria Gracielo Solis  
Vivian Somers  
H. R. Somplasky  
Nikki Somplasky  
Jack Spera  
Mike Sproba  
Anita Stalcup  
Linda Standley  
Ricky Standley  
Jason Steiz  
Neva Stern  
Elke Stephens  
John D. Stephens  
Pete Stone  
Johnie Street  
Terri Street  
Brain Sullivan  
Gary Sullivan  
Nicole Sullivan  
Sandra J. Sullivan  
Elaine Swaim  
Michael Sykes

John D. Tate  
Rhonda S. Tate  
Maxey Tharp  
Dale & Nancy Thrasher  
Juan Carlos Torres  
John Towle  
James Trevathan  
Kathy Trevathan  
Janet Trojanowski  
Aaron Turner  
Jason Turner  
Sandy Turner  
Woodrow J. Turner  
Frances Underwood  
Darold Vanderwerker  
Dean Vandewerker  
Janis Vandewerker  
Barbara Van Liew  
Daniel P. Vargas  
Maria Vasquez  
Melinda Vega  
Pam Vercher  
Tommy J. Vercher  
Zachary Vercher  
Candace Villarreal  
Faustino D. Villarreal  
Faustino R. Villarreal  
Lucila Villarreal  
Yvonne P. Villarreal  
Elanor von Tungeln  
James E. von Tunglen  
James E. Walkinshaw, Jr.  
Debra Walters  
M. Walters  
James R. Watkins  
Janice Watkins  
Kimberly Watkins  
Jimmy Weeks  
Clifford Welch  
Dale Welch  
John L. Welch  
Karen J. Welch  
Dannetta West  
Jody Westra  
Annette White  
Elizabeth Wilkerson

Jeremy Wilkerson  
Johnny Wilkerson  
Johnny Wilkerson, Jr.  
Norma L. Wilkerson  
Kimberly Wilkinson  
Randy Wilkinson  
Darrick Williams  
Donald G. Williams  
Joe K. Williams  
Lacey Williams  
Mary Williams

Sue A. Williams  
Willie Williams  
Justin Wood  
Brenda F. Wright  
Melba York  
Thomas York  
Stormy Curtner-Young  
William Young  
Scott Yura  
Ladgie Zotyka, Jr.  
Paul & Rebecca Zylman

The following people submitted an identical form letter to the TCEQ Office of the Chief Clerk from April 21, 2004 to March 10, 2005, and will be known as **Group 3**:

Richard Arnold  
Darryl Barnhill  
Linda Barnhill  
Erin and Marie Brown  
Kayla Rene Finley  
Vivian R. Hickman  
Tanya Hill  
Donald G. Myers  
Joyce Peterson  
Mary Phillips  
Billy Pickering  
Barney Pierce  
Sefronia Pittman  
Mark E. Plank  
Cathrin M. Plaster  
Homer R. Plaster  
Ricky Plummer  
Gwyneth Poole  
Thomas G. Poole  
Melanie Porrovecchio  
Charles R. Powell  
Susan Powell  
Skip Pratt  
L. A. Rains  
Luciano Ramirez  
Kevin Reece  
Paul Reich  
Lois Reiszner  
Jose A. Reyes  
Clelia Reyna  
Julie Rice

Anthony Richardson  
Wendy Richardson  
David Rickard  
Robbin Rickard  
Clara Riggins  
Larry Riggins  
Priscilla Rios  
Ruth A. Schrupp  
Angie Seals  
Jason Sebree  
Robert O. Sebree  
Joyce Selph  
Lyndle Selph  
R. T. Selph  
Melvin Sharpe  
Tamara Sherrouse  
Benjamin Shields  
Joe Shivers, Jr.  
Michele Shieve  
L. Shummay  
Sherry Smalling  
Arlinda Smith  
Michael H. Roberts  
Karen Robinson  
Thomas Robinson  
Maria Robledo  
Elvira Rodriguez  
Billy Rogarcki  
Eugene H. Rogacki  
Frances H. Rogacki  
Agnes & Eddie E. Rogers

Bobby & Faith Rogers  
Shelly Rogers  
Joyce Romig  
Tom D. Romig  
Daniel Rosales  
Elizabeth Rosales  
Fernando Rosales  
Mary Rosales  
Pedro Rosales  
Refugia Rosales  
Hector & Victoria Rosas  
John Russell  
John L. Safford  
Scott Sain  
Luke Saldana  
Diana Salinas  
Kerri Sample  
Michael E. Sample  
Maria Santoyo  
Rito Santoyo  
Carol Saxon

Loran Schmidt  
Robert K. Schrupp  
Cassandra Smith  
John B. Smith  
Leah D. Smith  
Novel Snider  
Virginia Snider  
Kevin Soeder  
Maria Gracielo Solis  
Vivian Somers  
H. R. Somplasky  
Nikki Somplasky  
Jack Spera  
Mike Sproba  
Anita Stalcup  
Linda Standley  
Ricky Standley  
Marla Todd  
Elanor P. von Tungeln  
James E. von Tungelen  
Mark Wiggins

The following people submitted identical comment letters and will be known as  
**Group 4:**

Rachel Amacloe  
Helen Barge  
William E. Boles  
Bonita L. Booth  
Stephanie A. Brennan  
Tom Brennan  
Douglas Cockerham  
William Cockerham  
Amy C. Colvin  
Peggy Sue Davis  
Norma J. Gibson  
Vernie J. Gibson  
James Harper  
Tommy Jensen  
Dalva Keener

Stanley Lambery  
Howard Launius  
Everette Lawson  
Barbara Mayeux  
Barbara McCleane  
Donald G. Myers  
Mrs. Don Myers  
Paul R. Simmons, Jr.  
Brandi Theode  
Jessie Van Liew  
Jim Vaught  
Elanor von Tungeln  
Jim von Tungeln  
Craig Welch  
Sandy Welch  
Charlotte Williams

The following people submitted identical comment letters and will be known as  
**Group 5:**

Sandy Kelldorf

Shirley & Sigmond Pzyliorslie



David R. Rolle

Rebecca Rolle

The following people submitted identical comment letters and will be known as **Group 6:**

Mary Lou Kirves  
Jack Spera

Pete Stone

The following people submitted identical comment letters and will be known as **Group 7:**

Candie Faubion  
Thomas Faubion  
Alan Fortenberry

Dan Mize  
Stephen Norris  
Robert L. Stevenson

The following people signed a petition and will be known as **Group 8:**

Juan & Leticia Aguilar  
Daniel Barnett  
Sharon Barnett  
Rogelio Baroenus  
Samantha Baumgarten  
Lety & Mike Bieniek  
C. B. Boudreaux  
Rachel Bratcher  
Janine Bryant  
Jon Buckholtz  
Tracy Cadengo  
Billy Collier  
Jason Cowart  
Pat Crowley  
Mary Ann Daniels  
Judy C. Dehart  
J. R. De Leon  
Marde De Leon  
Sunnie De Leon  
Janice & Pat Ferrer  
Rick Finery  
Homer Galicia  
Rachel Giblin  
Leah Gonzales  
Jack Grant  
Frank Harris, Jr.  
Maggie Harris  
J. O. Hudson

Roxanna Hudson  
Lee and Tina Leal  
William Maddox  
Amanda McShan  
Kenneth R. Meuth  
Kimberly Oneal  
Marvin Orsack  
Brian Peterman  
Lance Pigott, Jr.  
Lupita Miles Pigott  
Fay Pilkington  
Gregoria Ramirez  
Raquel Ramirez  
Tomas Ramirez  
Charles E. Richmond  
Diana Richmond  
Earlene Santo  
John & Leah Smith  
Justin A. Theriot  
Keith A. Theriot  
Paul Vyoral  
Johnny Walker  
Shannon Winton  
Michael Wolf  
Dalton Woolery  
Patty Zarate  
3 Concerned Citizens

The following people signed a petition and will be known as **Group 9**:

Heather Adams	Andy Mendiola
Bruce Bishop	Brenda Mendiola
Beth & Ricky Brecheen	Grace Mendiola
James P. Byrd	Jennifer Mendiola
Shelly Cartwright	Morris Miller
Chris & Dana Chaffee	Celeste Nance
Chris Chambers	Julia & Max Neely
Paul Clark	Marigrace O'Neil
Ronald Converse	Mary Page
Claudean Cook	Roxanne Pickering
Carolyn Cotton	Charles R. Powell
Trayton Davis	Kristy Powell
Chevis Dodd	Susan Powell
Renee Donald	Nora Renteria
Barbra Dowden	Gina Rose
Paul Dowden	Jerri Rose
Elisha Elliff	Eric Salus
Linda Evans	Harlan Schuettpelz
Frank Fanning	Eileen Sowell
Cyndi Foreman	Hank Sowell
Gregg Grinage	Sibyl Spence
Rachael Grinage	Donnye Spradley
Joan Hammock	Kenneth Stalling
Tommy Hardcastle	Thomas Stevens
Linda Hawthorne	Barbra Storrs
Tony Herrin & Pattie McGee	Janith Stowers
Jesus Jacobo	Carey Thomas
Nancy Jenkins	Eleanor Tupa
Thomas Jenkins	Manuel Vazquez
Louise Jessip	Mary Vazquez
Rachel Jimenez	Lenurma Verm
Martin Kennedy	Connie Vick
Robert Kuyon	Robert Vineyard
Sharon Labian	Frances Ward
Penny T. Lohr	Zulema Wells
Donald Mapston	Kimberly & Randy Wilkinson
Doug Mapston	Steve O. Wilkinson
Wndy Martin	Destiny Winn
Mike McClintock	Carla Woodward
Andres Mendiola	

The following people signed a petition and will be known as **Group 10**:

Kathleen M. Adams

Richard J. Adams, Jr.

Wesley T. Adkins  
Kathy Armstrong  
Raymond Atkinson  
Richard Atkinson  
Rodney Atkinson  
Luis Azuara  
Judy Banks  
Elizabeth Barbosa  
Melissa & Rick Barton  
Corallyn Berger  
Magnolia & Wayne Boehm  
Ernest & Marie Brown  
Jenise & Phillip Cemino  
Paul Clark  
Floyd Collins  
Linda Collins  
Lee Compton  
Doug & Tami Couey  
Sam Croce  
Diana Crowson  
William Crowson  
David & Karen Deschmer  
Mark & Monica Direnna  
Sonny Donaldson  
Deborah K. Doran  
Leroy Dudley  
Jerry Evans  
Richard W. Fendley  
Barbara Gandy  
Robert Gandy  
Sidney Gaylord  
Betty Gregg  
Fred Gregg  
Suzanne Hansen  
Dewana & Jamie Higgins  
Rusty Ireland  
Eugene & Tina Jackson  
George Johnson  
Dorene Jones  
Randy Kitchen  
Librado Leal  
Joe Leggett  
Patti Little  
Susie & Thomas Machen

Terry Mann  
Bobby L., Jr., & Patsy Matthews  
Betty & Louis McGuire  
Jeff L. McKinney  
Dennis McNabb  
David C. McQueen  
Destiny & Tom Miller  
Arguimiro Molina  
Bryan & Lisa Neal  
Glyn O'Briant  
Monica Ogilvie  
Marigrace O'Neal  
Trudilee O'Neal  
Gladys Perez  
Linda & Robert Phillips  
Billy & Deborrah Pickering  
Jessica & Larry Rancher  
Danielle & Paul Reich  
David Rendon  
Agnes & Eddie Rogers  
Alan Schuler  
Gordon & Jerri Sealy  
Melvin Sharpe  
Brad & Michele Shrieve  
Arlinda & Billy Smith  
Cassie & James Smith  
Leah Smith  
Linda Smith  
Donnie & Rebecca Sutton  
Maxey Tharp  
Barb Van Liew  
Daniel Vargas  
Candice Villarreal  
Chris Walker  
John & Vicki Warner  
G. W. Wayman  
Jimmy Weeks  
Dale Welch  
John Welch  
Karen Welch  
Clifford D. Welsh  
Joe K. Williams  
James Woodall

The following people signed a petition and will be known as Group 11:

Roy W. Abramson  
Misty Adams  
Richard J. Adams, Jr.  
Lewis Akin  
April Allen  
Jeff Allman  
Melanie Antiller  
Carlos Arreola  
Raymond Atkinson  
Richard Atkinson  
Luis F. Azuara  
Melinda Bacon  
Jimmy Bagley  
Clayton Bagwell  
Avery Ballard  
Cindy Jenkins Bayer  
Dustin Beckham  
Glenn Bell  
Alicia Bentley  
Corallyn Berger  
Stephanie Bigs  
James R. Bingham  
Betty Blackman  
Nicole Blake  
Amy Blanton  
Carrie Blanton  
Taina Blanton  
Magnolia C. Boehm  
Wayne Boehm  
Fran Bogert  
Al Bolt  
Kathie Boswell  
Virginia Boswell  
Joe Bowman  
Stephen Boyles  
David & Shari Bracewell  
Deborah Briggs  
Pat Brookshire  
Dennis Brown  
Dorothy M. Brown  
Frieda Brown  
Jack Brown  
Lee Brown  
Ken Burling  
Mark Cadwallader

Robert E. Caldwell  
David Campbell  
Stephen Carle  
David Carr  
Tera Carrasco  
Hayle Casey  
R. Cash  
Carol Castanon  
Louis Castanon  
Jenise & Phil Cemino  
Brian Chaloupka  
Darrell Chaloupka  
Vallye W. Chandler  
Jo Chapman  
Ann Cheatham  
Rickie Childers  
Barbra Christiansen  
Jason Christiansen  
John Cisneros  
Pat & Paul Clark  
Billy & Myla Cobler  
Charles & Doris Coburn  
Christy Coburn  
William Coburn  
Becky Colebank  
Carl Comstock  
Connie Contreras  
Thomas L. Cook  
Scott Coshrey  
Teresa Coshrey  
James Couch  
Doug & Tamara Couey  
Bill Cruz  
Jesus Cruz  
Julie Culver  
Elvis & Pat d'Agrella  
Bruce Dailey  
Karla Darden  
Robert Darden  
Ayha Darvey  
David Lynn Dauzart  
Terry Dauzart  
Argelio De Leon  
Esmeralda De Leon  
Mabry Dellyer

David Dempsy  
Gail & R. Dewey  
Matt Dodd  
Deborah K. Doran  
Durwood Doss  
Durwood Doss, II  
L. V. Dowden  
Amy Downs  
James Doyal  
Leroy Dudley  
Tami Dudley  
Gregg Dunn  
L. E. Dunn, III  
Mary Edwards  
Wendy Ellis  
Kenneth Essman  
Karen Eudy  
Phil Eudy  
Shawna Everett  
Barry Fantes  
Tara Fay  
Kenita Fendley  
Cheryl Fincher  
Bobby Finley  
Brandon Ford  
Matthew & Tanci Foster  
Julia & Scott Frankenfield  
Rex Fry  
Jo Anne Galulman  
Esteban Garcia  
Juan Garcia  
Stacey Garee  
Gary & Jess Garner  
F. P. George  
Maureen M. Golden  
Cara Jo Gonzalez  
Kelly Gorrell  
Betty Grantham  
Randy Gross  
Brittany Gullette  
Ken Hacker  
Denise Hall  
Justin Hambrick  
Debbie Hancock  
Bruce Hansen  
Mark Harrell

Harry Harris  
Wynne Harris  
Tracey Marie Harrison  
Mary Hartt  
Rhonda Harvey  
Bryan Hayes  
Tammy Haywood  
Laurie & Ron Headings  
Brenda & Trey Hearn  
Joseph Hemby  
Carol Hennessy  
Kathy Hernandez  
Tony Herrin  
Lisa Hessler  
Jamie Higgins  
David Hinder  
Beverly Hinds  
J. L. Hodges  
Clorinda Hogan  
Dwayne & Pam Hood  
Chanhe Horton  
Claudia Hubbard  
Jeff Hunter  
Stacie Hunter  
Theresa Hymil  
Toni Ingle  
Rusty Ireland  
Don Johnson  
Jolene Johnson  
Marty & Rene Kay  
Mart Keltch  
Patty Keltch  
Bryan Kelley  
Morgan Kelley  
Devan Kendrick  
Sharon Kendrick  
Vincent Scott Kendrick  
Larry Kennedy  
Kara Kern  
Jennifer Kirk  
Zachary C. Kirk  
Jennifer Knight  
Susan Koskoc  
Ruby Krautkremer  
John Kuke  
Tracey Kurtz

Angela Kyle  
Tamara Lambdin  
Jim Lamendola  
D. LaRouche  
Kevin & Melanie Lawson  
Librado Leal  
Sherry LeBlanc  
Anita Lee  
Sandy Lehman  
Bright & Michael LeMaster  
Raymond Lewis  
Mark Lichman  
Charles Lightfoot  
Jill Limbaugh  
Phillip Lindsey  
Patricia Little  
John Long  
George R. Longmore  
Donald Loosier  
Jim Luton  
Stella Luton  
Brandi Lyons  
Susie & Thomas Machen  
Susie Machen  
Tommy Machen  
Brenda Mackey  
Mark Maddox  
Sharon Maddox  
Raileen Mangurn  
Kenneth Manzella  
Jennifer Martinez  
Mark Matheny  
Bobby & Patsy Matthews  
Susan Matthews  
Travis Mayeux  
Matt McCleane  
Wanda Laynette McCray  
Pattie McGee  
April McHenry  
Michael McKay  
Cindy & Phillip McKenzie  
Ronny McKinnie  
Stephane McMillan  
Amy McMullen  
Trey Meador  
Matt Medford

Aida Medinilla  
Albert Menard  
Linda Menard  
Josh Merimon  
Diana Merrell  
J. Miles  
S. Miller  
Kellie Montgomery  
Cindy & Terry Moon  
Tammy Moore  
Robert Morgan  
Bobby Morris  
Ella May Morris  
Michael Moris  
Vickie Morse  
William Mozingo  
Alisa Murphy  
Susan Murrell  
Kevin Myers  
Mark Nalty  
Tiffany Neal  
Albert Nelson  
Shelia Nelson  
Deborah Noble  
George D. Noble  
Paula Noble  
Ranee Nolern  
Dianne Nuget  
Doris O'Dell  
Dennis O'Malley  
Mary O'Malley  
Matt O'Malley  
Marigrace O'Neil  
Debbie Orsack  
John & Pattie Ortega  
Judith O'Toole  
Melinda Parker  
Michael W. Parker  
Betty Parmer  
George Parmer  
Avery Patterson  
Mariann Patterson  
Melanie Perdue  
William Petty, Jr.  
Linda Phillips  
Janie Piccis

Susan Pine  
Darrel Pinksion  
Eric Powell  
Michelle Pule  
William C. Quimm  
Geraldo Ramirez  
Diana Real  
Robby Real  
David Rendon  
Link Reneau  
Mary Rich  
Emmajean Ritter  
Judy Robertson  
Scotty Robinson  
Jim Rogganbock  
Johnny Rothe  
S. W. Rutherford  
Cynthia Sam  
Lamont Sam  
David Sams  
Brandon Sanders  
Maruea Sangstear  
Sparky A. Santana  
Brenda Schank  
Robert Scharee  
Kenneth Schelsteder  
Mr. & Mrs. Schulmire  
Gordon Sealy  
Jerri Sealy  
Vinson Sealy  
Judi Self  
R. F. Shannon  
Cyndi Simmons  
Lee Simmons  
Tracy Simonsen  
John Small  
Cassie Smith  
Jerrie Smith  
John & Leah Smith  
Nikki Somplasky  
Jan & Ron Stallworth  
Linda Standley  
Nick Steele  
Bart Steen  
Linda Stegenga  
Analeisa Stern

Jeff Stern  
Connie Stipanic  
Bryan Stuart  
Colette Talbert  
George Tambourides  
David Tate  
Rhonda Tate  
H. W. Taylor  
Joyce Taylor  
Claude A. Teal  
Debra Teekamp  
Floyd Temple  
Debbie Thiel  
Amy Thomas  
Hailey Thomas  
Michael Thomas  
Pat Thomas  
Tracie Thomas  
Janice Thomason  
Scott Thompson  
Sheri Thompson  
Jack S. Torrence  
Marcia Townsend  
Debra Trammel  
H. Eugene Trammel  
Josh Travesse  
Ross Travesse  
Ross Tuff  
Stan Tully  
Amanda Middel-Urby  
Cabrilla Valdes  
Dee Van  
Barb & Dick Van Liew  
Max Vickers  
P. H. Bickey  
Faustino D. Villarreal  
Yvonne P. Villarreal  
Jim von Tungeln  
Ashlea Vyoral  
Doug Vyoral  
Rachel Walker  
Tammy Walker  
Bobby L. Walters  
Debra Walters  
Loni Walton  
Danny & Donna Warner

Beckie Warren  
Paula Warren  
Shannon Warren  
Sue Wayford  
Donna Weaver  
Randall Weaver  
Jordan Wedgewood  
Dale Welch  
Karen Welch  
Heath Wells  
Jody Westra  
Marie Whiddon  
Judy Whitten  
Joe K. Williams  
David E. Wilson

Diane A. Wilson  
Jacqueline Woychesin  
Ricky Woychesin  
Kristin Wright  
Charles W. Yawn  
Sercy Yawn  
Banica Young  
Bubba Young  
Lila Young  
Racheal Young  
Ray Young  
Richard Young  
Karen Zeller  
Paul Zylman  
26 Concerned Citizens

This Response addresses all such timely comments received, whether or not withdrawn. If you need more information about this permit 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 at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

## BACKGROUND

### Description of Facility

The Applicant has applied to the TCEQ for a new permit that would authorize the construction and operation of a new Type IV municipal solid waste landfill in Montgomery County, Texas. The proposed landfill would primarily serve the construction and demolition needs of Montgomery County, but may also serve the surrounding counties. The total permitted facility will include 473.0 acres of land of which approximately 207.1 acres will be used for waste disposal. The final elevation of the waste fill and soil cover material will be 408.29 feet above mean sea level. Waste acceptance rate is expected to average approximately 3,000 tons per day.

If the Commission issues the draft permit, the site will be authorized to accept municipal solid waste resulting from, or incidental to, construction, demolition and grounds keeping activities, including brush, construction and demolition waste, rubbish, inert material, man-made inert material, trash, yard waste that is free from putrescible and household waste, scrap tires that have been slit and quartered or shredded, but not from a tire disposer or recycler that is reimbursed from the State Waste Tire Recycling Fund, and other waste as approved on a case-by-case basis by the Executive Director. The site is not able to accept those waste streams that are expressly prohibited by 30 TAC Chapter 330, including but not limited to hazardous waste, Class 1 non-hazardous industrial waste, Class 2 non-hazardous industrial waste, Class 3 non-hazardous industrial waste, regulated radioactive waste, waste containing regulated polychlorinated biphenyls, putrescible waste, household waste, liquid waste, water and wastewater treatment sludge, grease or



grit trap wastes, special wastes, and waste material that may cause odor or nuisance or that may require excessive or special on-site procedures and handling requirements.

If the Commission issues the draft permit, the facility will be located at 3761 North Walker Road, approximately 1.4 miles north of the intersection of North Walker Road and SH 105, abutting the west side of North Walker Road. The location is outside any city limits. The land within one mile of the proposed facility is 60% undeveloped or agricultural, 39% residential with some agricultural use, and 1% industrial. The structures that are within one mile of the facility are primarily homes and some structures incidental to agricultural uses. There are approximately 780 people that reside within one mile of the proposed facility, with nine structures and habitable buildings within 500 feet of the permit boundary. The nearest structure is approximately 75 feet east of the permit boundary and about 1,150 feet east of the waste cell.

#### Procedural Background

The application was received on March 17, 2004, and declared administratively complete on April 4, 2004. Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit (NORI) was published on April 21, 2004 in the *Conroe Courier*. Notice of Public Meeting was published on July 19, 26, and August 2, 2004 in the *Conroe Courier*, and a public meeting was held in Conroe, Texas on August 9, 2004. The Executive Director completed the technical review of the application on October 21, 2004, and prepared a draft permit. Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit (NAPD) was published on November 25, 2004. Notice of Public Meeting was published on February 17, 24, and March 3, 2005 in the *Conroe Courier* and the *Houston Chronicle*, and a public meeting was held in Conroe, Texas on March 10, 2005. The Executive Director prepared his original Response to Public Comment, and filed it with the TCEQ's Office of the Chief Clerk on July 6, 2006.

On November 10, 2006, the Executive Director received an amended application for review. The Executive Director completed the technical review of the amended application on September 7, 2007, and a second NAPD was published on December 21, 2007 in English in the *Conroe Courier* and *Houston Chronicle*, and in the Spanish language newspaper of general circulation in Montgomery County, *El Sol*. Notice of Public Meeting was published on March 20, 27, and April 3, 2008 in the *Conroe Courier* and the *Houston Chronicle*, and a public meeting was held on April 10, 2008 in Conroe, Texas. The comment period ended the day after the conclusion of the April 10, 2008 public meeting. There are no gaps in the comment period for this application. The comment period for this application opened March 17, 2004, and closed April 11, 2008. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76<sup>th</sup> Legislature, 1999).

#### Access to Rules, Laws, and Records

The Commission's current rules may be accessed online by using the Texas Administrative Code (TAC) viewer feature on the Texas Secretary of State website at: [www.sos.state.tx.us](http://www.sos.state.tx.us) (Select "State Rules & Open Meetings," then "Texas Administrative Code," and then "TAC Viewer").

30 TAC Chapter 330, Municipal Solid Waste, was amended by the TCEQ, effective March 27, 2006.<sup>1</sup> Since the application was declared administratively complete on April 4, 2004, it was reviewed in accordance with 30 TAC Chapter 330 prior to the 2006 amendments. The archived rules are available through the TCEQ's website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (Select "Rules," then "Municipal Solid Waste Chapter 330 Rules prior to March 27, 2006")

Texas statutes may be accessed through the Texas Legislative Council's website at: <http://www.tlc.state.tx.us> (Select "Internet Resources," then "Texas Statutes").

General information about the TCEQ can be found at our website at: [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (For downloadable rules in Adobe PDF format, select "Rules," then "Current TCEQ Rules," then "Download TCEQ Rules")

Federal statutes and regulations may be accessed through the Environmental Protection Agency (EPA) website at: [www.epa.gov](http://www.epa.gov) (Select "Laws & Regulations").

Commission records for this facility are available for review and copying during regular business hours at the TCEQ's Office of the Chief Clerk, Building F, 12100 Park 35 Circle, Austin, TX. 78753. A copy of the amended application and draft permit are currently available for review and copying at the Montgomery County Library in Conroe, Texas; and will remain there until either the TCEQ acts on the application, or the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.

## COMMENTS AND RESPONSES

### COMMENT 1: (Notice)

Those people identified in Group 11 commented that the public notice did not provide enough time for citizens to take action. Mary Jennings Hartt agreed and considered the timing of notice issue to be a violation of the due process clause of the 14<sup>th</sup> Amendment of the U.S. Constitution.

### RESPONSE 1:

The TCEQ's notice requirements at 30 TAC §§ 39.405, 39.413 and 39.501 require that notice be published in the paper of largest general circulation in the county where the new MSW facility is proposed to be located and mailed to adjacent property owners, persons who have requested to be on the mailing list, and designated public officials and agencies. An applicant is required to publish a NORJ within 30 days of the

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<sup>1</sup> See 31 Tex. Reg. 2502 (March 24, 2006).

Executive Director declaring its application administratively complete.<sup>2</sup> An applicant must publish a NAPD within 45 days of the NAPD being mailed by the TCEQ's Office of the Chief Clerk.<sup>3</sup> TCEQ rules require that a public meeting be held on all applications for new MSW facilities received before September 1, 2005.<sup>4</sup> The decision to hold a public meeting on applications for new MSW facilities received after September 1, 2005 is determined by the factors set forth in 30 TAC §§ 39.418(e) and 55.154. The applicant for a new MSW facility is required to publish notice of a public meeting once a week during the three weeks preceding the public meeting in the paper of largest general circulation in the county in which the facility is proposed to be located.<sup>5</sup> These requirements were designed to ensure meaningful public participation in the permitting process.

In this case, the original application was filed on March 17, 2004, and declared administratively complete on April 4, 2004. The NORI was published on April 21, 2004 in the *Conroe Courier*. Notice of Public Meeting was published on July 19, 26, and August 2, 2004 in the *Conroe Courier*, and the public meeting was held in Conroe, Texas on August 9, 2004. The NAPD was published on November 25, 2004. Notice of Public Meeting was published on February 17, 24, and March 3, 2005 in the *Conroe Courier* and the *Houston Chronicle*, and a public meeting was held in Conroe, Texas on March 10, 2005. On November 10, 2006, the Executive Director received an amended application for review. The Executive Director completed the technical review of the amended application on September 7, 2007, and a second NAPD was published on December 21, 2007 in English in the *Conroe Courier* and *Houston Chronicle*, and in the Spanish language newspaper of general circulation in Montgomery County, *El Sol*. Notice of Public Meeting was published on March 20, 27, and April 3, 2008 in the *Conroe Courier* and the *Houston Chronicle*. A public meeting was held on April 10, 2008 in Conroe, Texas. The Executive Director has determined that the Applicant has timely complied with all applicable notice requirements.

COMMENT 2: (Alternative Language Notice)

Gabriela Gonzalez, Francisco Moctezuma, Nora Renteria, David Tate (CAML), Rhonda Tate, and Jacqueline Woychesin commented that the TCEQ did not provide public notice in Spanish. Francisco Moctezuma would have liked the opportunity to speak and give his opinion in Spanish.

RESPONSE 2:

At the time the original application was declared administratively complete, alternative language notice newspaper publication requirements were only applicable to air permits. However, in November of 2005 the TCEQ amended its rules, subjecting waste and water quality permits to alternative language notice newspaper publication

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<sup>2</sup> 30 Tex. Admin. Code §§ 39.405(a) & 39.418(b) (West 2008).

<sup>3</sup> 30 Tex. Admin. Code § 39.405(a) (West 2008).

<sup>4</sup> 30 Tex. Admin. Code § 39.501(e) (West 2008).

<sup>5</sup> 30 Tex. Admin. Code §§ 39.405(f)(2) & 39.501(e)(5) (West 2008).

requirements as well.<sup>6</sup> After filing its amended application on September 7, 2007, the Applicant was required by 30 TAC § 39.405(h) to publish its second NAPD in both English and Spanish. The second NAPD was published on December 21, 2007 in English in the *Conroe Courier* and *Houston Chronicle*, and in the Spanish language newspaper of general circulation in Montgomery County, *El Sol*. For this application, eighteen people gave written or formal comments in Spanish. All comments received by the TCEQ on this application, whether they were made in English or in Spanish, are addressed in this Response.

**COMMENT 3:** (Public Meetings and Contested Case Hearings)

Jeff Allman, Raymond Atkinson, Darryl and Linda Barnhill, Martha Barr, Thomas Beers, Ken Burling, Diannia Carter, Jenise Cemino, Phillip Cemino, Ann Cheatham, Evelyne Collins, David Lynn Dazart, Terry Dazart, Dean Duskin, Janice Ferrer, Pat Ferrer, Charles Fitzgerald, Tanci Foster, Bill Franks, Susan Franks, Jessica Gonzalez, Judith Horne, Claudia Hubbard, Mary and Robert Hutseal, Gloria Jensen, Minnie and Normane Kaatz, Ernest Kanak, Jr., Shelagh Kasinger, Mary Lou Kirves (Texas Real Estate Group), Joseph Kocurek, Alexandria, Antonia, and Tasha Lacina, Frank Lee, Leona Lee, Reverend Jim Luton, Stella Luton, Susana Magana, Esmeralda McCleane, Jose Mejia, Alisa Murphy, Ellen Nelson, Marigrace O'Neil, Edward Parten, Billy Pickering, Deborah Pickering, Greg Poole, Oscar Ramirez, Lois Reiszner, Sandy Relander, Link Reneau, Nora Renteria, Normo Reyes, Jack Safford, Gary and Sandra Sullivan, Rhonda Tate, Debra Teekamp, Vicki Thompson, James and Kathy Trevathan, Frances Underwood, Michael Walton, and Jacqueline Woychesin commented that the public meeting facilities were inadequate for the number of people.

Martha Barr, Gabriela Gonzalez, and Rhonda Tate commented that cancellation of the informal part of the public meeting denied some people a chance to ask questions. Those people identified in Group 4, Group 8, Group 10, Group 11, and Charles Buzbee, Mary Carter (CAML), Mel Fife, Maria Figueroa, Linda Standley, Linda Stegenga, David Tate (CAML), David and Rhonda Tate, and Jacqueline Woychesin commented that the public meeting was unsatisfactory because the Applicant's representative could not answer basic questions and concerns. Mary Carter (CAML) requested that the Applicant hold another public meeting rather than replying by email to written questions. Linda Standley was concerned that the Applicant refused to answer general questions. Mary Jennings Hartt asked the TCEQ to take into account the Applicant's refusal to answer questions at the public meeting, and commented that the Applicant's lack of responsibility to the community might bear upon the facility's environmental compliance once it was built. William Carter commented that the protesters at the public meeting were being treated like mushrooms.

Those people identified in Group 4, Group 8, Group 11, and Mel Fife, Judith Horne, Melody Logan, and Carol Parten commented that the public meeting should be in Montgomery County. Denise Bell, Linda Collins, Tina Collins, Norma Gibson, Duane and Tracy Hamilton, Albert and Shelia Nelson, Billy Wagnon, and Karen Welch

<sup>6</sup> See 30 Tex. Reg. 7878 (November 25, 2005).

commented that the contested case hearing should be in Montgomery County. Rhonda Tate commented that the Applicant was allowed to control the public participation process from the beginning and that the TCEQ ignored requests for a different venue.

**RESPONSE 3:**

Four public meetings have been held in Montgomery County regarding this permit application. The first meeting was held by the Applicant on April 22, 2004, pursuant to 30 TAC § 39.501(e)(1)(B). This first public meeting is intended to be strictly between an applicant and concerned members of the public; no one from the TCEQ attends this first public meeting. The Executive Director received several comments from people who attended the first public meeting indicating that the Applicant's representative was unable to answer all of the questions posed during the meeting.

The second public meeting was conducted by the TCEQ at Conroe Tower in Conroe, Texas on August 9, 2004. The Applicant and TCEQ staff were led to believe that Conroe Tower was an appropriate location to hold the public meeting based upon the amount of interest shown in the permit, accessibility of the location, and proximity to the proposed facility. Unfortunately, Conroe Tower was unable to accommodate the number of people who wished to attend the second public meeting. The format of the second meeting was altered on the spot by eliminating the informal question and answer period in order to allow more time for interested persons to rotate into and out of the meeting room to make formal comments. The informal question and answer period is not required by rule, and the second public meeting conformed to all applicable TCEQ requirements. However, due to the dissatisfaction expressed during the second public meeting and immediately thereafter, the TCEQ conducted a third public meeting in order to accommodate all interested parties.

The third public meeting was conducted by the TCEQ on March 10, 2005 at Caney Creek High School in Conroe, Texas. The Applicant attended this meeting, but did not answer questions during the informal question and answer session. TCEQ rules require an applicant to attend a public meeting, but do not require an applicant to respond to questions during the informal question and answer session. TCEQ staff answered questions from concerned citizens. The third public meeting conformed to all applicable TCEQ rules.

The fourth and final public meeting was conducted by the TCEQ on April 10, 2008 at Caney Creek High School in Conroe, Texas. This public meeting was held at the request of State Senator Robert L. Nichols. The Applicant attended this meeting, and answered questions during the informal question and answer period regarding the amended application submitted to the Executive Director on November 10, 2006.

The TCEQ's Office of the Chief Clerk has received a number of contested case hearing requests on this application. The Commission will consider these requests at a Commissioners' agenda meeting, and refer all relevant and material issues to the State Office of Administrative Hearings (SOAH). The SOAH Administrative Law Judge

(ALJ) will determine the appropriate venue for the hearing. Pursuant to 1 TAC § 155.403, the SOAH ALJ will designate a neutral hearing site in accordance with applicable law. When considering a hearing site not in Austin, the ALJ may consider: 1.) the amount in controversy, 2.) the number of persons in the geographical region affected by the outcome of the hearing, 3.) the estimated length of the hearing, 4.) the availability of hearing facilities, 5.) the costs to and preferences of the parties, 6.) the location of witnesses, 7.) the availability and feasibility of videoconference technology as a means to reduce costs to SOAH and the parties, 8.) legislative restrictions on travel, and 9.) any applicable law or other factor relevant to the fair and expeditious resolution of the case.<sup>7</sup>

COMMENT 4: (State and Local Government Involvement)

David Henderson, Linda Standley, and Michael Walton commented that the citizens unanimously disapproved of the landfill. County Commissioner Ed Rinehart said that the landfill was being forced on a community that did not want it. Judge Alan Sadler commented that the Montgomery County Court was not aware of certain issues when it supported the site. Jim Dawson and Linda Standley commented that state and local officials had spoken out against the site, and that there was no resolution supporting the site by a local governing body. Jacqueline Woychesin commented that the community and governmental entities were not involved in the siting process. Linda Standley, Linda Stegenga, David Tate (CAML), and David and Rhonda Tate commented that the City of Conroe resolution in favor of the landfill was meaningless because Conroe was not a relevant area. CAML commented that the Houston-Galveston Council of Governments made specific substantive comments regarding the application. Mr. and Mrs. Joe Esposito commented that they were tired of being dumped on by the public servants of Conroe. Monte Lane commented that he believed the Applicant contributed to Commissioner Rinehart's campaign fund. Linda Standley commented that the application seemed inconsistent with regional planning goals. Those people identified in Group 1, Mary Carter (CAML), and David Tate (CAML) commented that the Applicant had failed to demonstrate that its facility would comply with the regional solid waste management plan developed by the Houston-Galveston Council of Governments.

State Representative Ruben Hope, Jr. commented that he would be working with the County Attorney to revise Texas Health and Safety Code Sections 361.122 and 361.123. Linda Standley commented that the application seemed to be prohibited by the Texas Health and Safety Code. Angus Lupton commented that Senator Staples would be looking into whether this area needed another landfill.

RESPONSE 4:

TCEQ rules do not require an applicant to obtain a resolution by a local governmental entity in support of its application for a new MSW facility. Resolutions passed by local governments in support or opposition to an application are given the same weight as any public comment. Pursuant to 30 TAC § 330.53(c)(10), an applicant is required to submit a demonstration of compliance with the regional solid waste

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<sup>7</sup> 1 Tex. Admin. Code § 155.403(b) (West 2008).

management plan.<sup>8</sup> The regional solid waste management plan for Montgomery County was developed by the Houston-Galveston Council of Governments (H-GAC). Pursuant to TCEQ rules, H-GAC was provided with a copy of the application summary. While H-GAC issued a statement that the proposed facility is “neither consistent nor inconsistent with the Solid Waste Regional Plan,” the regional solid waste management plan indicates that a Type IV landfill is needed in Montgomery County. The Applicant provided information demonstrating the proposed facility conforms with the regional solid waste management plan for Montgomery County.

During the regular session of the 79th Texas Legislature, State Representative Ruben Hope, Jr. introduced House Bill (HB) 1053. HB 1053 was sponsored in the Senate by Senator Todd Staples. HB 1053 amended the Texas Health and Safety Code by adding Section 361.123, which prohibits the TCEQ from issuing a permit for a Type I or a Type IV MSW landfill in counties that are adjacent to a county with a population of more than 3.3 million and inside the boundaries of a national forest on public or private land.<sup>9</sup> HB 1053 only applies to applications received by the TCEQ on or after the effective date of the bill.<sup>10</sup> HB 1053 was passed by a two-thirds vote in both houses, signed by the Governor on June 18, 2005, and was effective upon his signature.<sup>11</sup> The original application was received by the TCEQ on March 17, 2004, predating the effective date of Section 361.123; therefore, Section 361.123 does not affect this application.

COMMENT 5: (National Forest Land)

Melba York commented that the proposed location of the landfill was in a National Forest, where the clearing of large acres of trees is prohibited. Ms. York also asked how Sam Houston National Forest would be affected by the landfill.

RESPONSE 5:

According to the application, the proposed facility will be located on private property owned by the Applicant. The Executive Director does not anticipate that the proposed landfill will adversely affect the Sam Houston National Forest.

COMMENT 6: (General Comments About Process)

Samantha Baumgarten and County Commissioner Ed Rinehart commented that the permitting process took too long, and that the TCEQ was not acting wisely or efficiently. Linda Standley commented that the application should be carefully scrutinized for mistakes.

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<sup>8</sup> 28 Tex. Reg. 6900 (August 22, 2003), *repealed by* 31 Tex. Reg. 2502 (March 24, 2006).

<sup>9</sup> Texas Health & Safety Code § 361.123(b) (West 2008).

<sup>10</sup> Texas Health & Safety Code § 361.123 historical note (West 2008) [Act of May 26, 2005, 79th Leg., R.S., ch. 1027, § 2, 2005 Tex. Gen. Laws 3485].

<sup>11</sup> Texas Health & Safety Code § 361.123 historical note (West 2008) [Act of May 26, 2005, 79th Leg., R.S., ch. 1027, § 3, 2005 Tex. Gen. Laws 3485].

**RESPONSE 6:**

Review times for the TCEQ permitting process are defined in TCEQ rules in accordance with state law. This application review has gone well beyond the typical time frame due to the extension of the comment period to allow for the third and fourth public meetings, the submission and subsequent technical review of the amended permit application, and responding to extensive public comment. Every application received by the TCEQ is reviewed to ensure compliance with all applicable rules.

**COMMENT 7 (Environmental Public Defender)**

Frinkie Milley asked why the community had to raise \$250,000 to fight a landfill, and commented that the state should provide an attorney.

**RESPONSE 7:**

An attorney is not necessary to participate in the public participation process. However, a citizen may employ legal counsel if he or she wishes. Neither federal nor state law requires the state to provide counsel in administrative law matters.

**COMMENT 8: (Previous Application)**

Dino Villarreal commented that there were inconsistencies between the application for MSW Permit No. 2324 and MSW Permit No. 2312.

**RESPONSE 8:**

The Applicant initially filed an application for MSW No. 2312, but withdrew that application on January 30, 2004, after failing to hold the mandatory applicant-led public meeting within 45 days of filing the application.<sup>12</sup> Every application received by the TCEQ is evaluated as a stand-alone document. Once an application is withdrawn it is no longer considered in any capacity. TCEQ rules do not require consistency between current applications and prior applications that have been withdrawn.

**COMMENT 9: (Major Amendment)**

Cheryl Burks asked how the application could move forward after the Applicant made a major change to the application information.

**RESPONSE 9:**

An amendment to an application that would constitute a major amendment under 30 TAC § 305.62 can be made by an applicant after the chief clerk has issued notice of the application and draft permit, if new notice is issued which includes a description of

<sup>12</sup> 30 Tex. Admin. Code § 39.501(e)(1)(B) (West 2008).



the proposed amendments to the application.<sup>13</sup> On November 10, 2006, the Applicant submitted an amended application for review. The amended application was declared technically complete on September 7, 2007, and a second NAPD was published on December 21, 2007. Another public meeting was also held on April 10, 2008, allowing the public to comment on the amended application.

**COMMENT 10:** (Landfill Expansion)

Vallye W. Chandler expressed her concern that the landfill could be expanded at a later date.

**RESPONSE 10:**

TCEQ rules allow a permittee to expand a landfill both horizontally and vertically by submitting a permit amendment.<sup>14</sup> Increases in the maximum elevation, volumetric waste capacity, or the lateral expansion of a landfill, other than changes to expand the buffer zone, require applicants to submit a new permit application.<sup>15</sup> Major amendments to MSW permits are subjected to the same review and public participation processes as new permit applications.<sup>16</sup>

**COMMENT 11:** (Location & Community Need)

Luine Hancock (State Senator Robert Nickols) commented that the location for the proposed site was prime for residential development and commercial construction, and disagreed with the Applicant's site selection. Garry Biddle suggested that the site be dug out for a new fresh water reservoir or lake, with the waste transported by train to a deserted area. Dr. Dellanira Rangel also suggested that the landfill be located in a deserted area. Jim Dawson commented that the Applicant violated his responsibility to select a landfill site that was isolated, and a sufficient distance from present or future populated areas. Erin Dotson commented that the landfill should be located in a place where few people live. Ken Burling commented that there were other places for the landfill. Barbara Mayeux asked that if the landfill was truly not a danger to mankind, then why couldn't the landfill be located in the Montgomery or Woodland area. Lisa Reasnor opposed the landfill location. Thornton Ireland commented that there were other counties to the west that would welcome a landfill, and had offered to share the cost. Ronald Maffett commented that the Applicant had enough money to purchase land in an unpopulated area. Mikel and Lorraine Morris commented that the Applicant should move the landfill north, away from any community development.

Barbara Mayeux, County Commissioner Ed Rinehart, and Donna Vandermoleni commented that they were concerned about the number of solid waste facilities in the area. Luine Hancock (State Senator Robert Nickols) commented that the proposed

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<sup>13</sup> 30 Tex. Admin. Code § 281.23(a) (West 2008).

<sup>14</sup> 30 Tex. Admin. Code § 305.62 (West 2008).

<sup>15</sup> 30 Tex. Admin. Code § 305.62(i)(1) (West 2008).

<sup>16</sup> 30 Tex. Admin. Code § 281.2(9) (West 2008).

landfill was located less than two miles from Waste Management's Type I Security Landfill, and that the H-GAC waste management plan and House Bill 1053 discouraged landfill clustering. Linda Crandall and Rhonda Tate commented that they were concerned about having three landfills in the area. Those people identified in Group 1 and Mary Carter (CAML), Dan and Jerri Heil, R. M. Palmer, and James Walkinshaw commented that the Security landfill, located approximately 1.6 miles from the proposed site, was recently expanded to accept Montgomery County waste for an additional 25-30 years; and that this area had been singled out for landfill clustering. Mary Carter (CAML) commented that the expanded Security landfill was able to accommodate the Type IV waste disposal needs of Montgomery County. Mike Walton questioned how the TCEQ could mandate the clustering of landfills in any area. Thornton Ireland commented that this area already had an existing 800 acre landfill approximately one mile east of the proposed facility on Highway 105. State Senator Robert Nickols commented that he was concerned about the proximity of the proposed landfill to the Security landfill.

Those people identified in Group 1, Group 2, Group 6, Group 9, and Phillip Branch, Mary Carter (CAML), Elvira and Yolanda Cervantez, Vallye Chandler, Linda Collins, Tina Collins, Erin Dotson, Louis Aaron Dotson, Jim Dawson, Deborah Doran, Barbara, Leamon, and David Dowden, Mel Fife, Shelia Freeman, Norma Gibson, Mary Jennings Hartt, Laurie Headings, David Henderson, Tony Herrin and Pattie McGee, State Representative Ruben Hope, Jr., Devin Kaatz, Minnie Kaatz, Normane Kaatz, Shelah Kasinger, Monte Lane, Phillip Lindsey, Revernd Jim Luton, Ronald Maffett, Patsy Matthews, Barbara Mayeux, Albert and Shelia Nelson, R. M. Palmer(International Paper, Realty Division), Greg Poole, Jennifer Real, Danielle Reich, Lois Reiszner, James Reneau, Leona Reneau, Nora Renteria, County Commissioner Ed Rinehart, Pedro Rosales, Jr., Judge Alan Sadler, Bob and Lynda Sasser, Travis Selph, James Shropshire, John and Leah Smith, Linda Standley, Linda Stegenga, Donald Stockton (Conroe I.S.D), David Tate (CAML), David and Rhonda Tate, Faustin Villarreal, Billy Wagnon, Michael Walton, Janice Watkins, Joann and Thomas Welch, Karen Welch, Jacqueline Woychesin, Ladgie Zotyka, Jr., and Paul Zylman commented that East Montgomery County did not need an additional landfill. Also, concern was expressed that landfills and other waste facilities were being targeted and clustered in East Montgomery County. Jennifer Real asked whether there was a real economic need for the landfill. Mary Carter (CAML) and CAML commented that the Applicant had not been able to identify any clear benefit this proposed landfill would provide to the community, and that the impact to low income and minority communities was disproportionate to the population in Montgomery County and the four surrounding communities. Vallye W. Chandler, Jimmy Hunt, Jason Turner, and James Walkinshaw asked why there was a need for another landfill when there was already a landfill in the area. Luine Hancock (State Senator Robert Nickols) commented that there is no justifiable need for an additional landfill when the Security Landfill could accept construction and demolition debris waste. Nora Renteria and Rhonda Tate asked if the county had any recourse to limit the number of landfills that locate in an area. David Tate commented that the additional disposal capacity that this landfill would provide would not be needed for at least 30 years. Amarian Castillo, Aaron Flores, Claudia Flores, and Judith Gonzalez commented that they didn't want a landfill nearby.

Superintendent Leon Cubillas (Splendora I.S.D.), Mel Fife, Mary Jennings Hartt, Nora Renteria, John and Leah Smith, Linda Stegenga, David Tate (CAML), David and Rhonda Tate, and Jacqueline Woychesin commented that the landfill was environmental racism, classism, and unjust.

#### RESPONSE 11:

The regional solid waste management plan for Montgomery County, developed by the Houston-Galveston Area Council of Governments (H-GAC), calls for a Type IV landfill in Montgomery County to serve the region's waste disposal needs. TCEQ rules were promulgated to ensure that an MSW facility does not pose a health risk to the surrounding community. The Executive Director does not have the authority to consider alternative locations, benefits to the community, or disproportionate impact within a region. These issues, along with concerns regarding the clustering of MSW facilities, are more appropriately addressed to planning authorities such as the county, city, and H-GAC.

A county may prohibit by ordinance the processing or disposal of municipal or industrial solid waste in certain areas of the county.<sup>17</sup> However, the county may not prohibit the disposal of municipal or industrial solid waste in an area for which the TCEQ has already issued a solid waste permit, or in an area for which an application for a solid waste permit has been submitted and is pending before the Commission.<sup>18</sup>

#### COMMENT 12: (Old Landfills)

Frankie Milley thought that old landfills should be cleaned up before permitting a new landfill.

#### RESPONSE 12:

Effective in 1993, Subtitle D of the federal Resource Conservation and Recovery Act (RCRA) caused landfills receiving municipal solid waste throughout the nation to upgrade or close. All facilities permitted in Texas since Subtitle D was enacted must have, as appropriate for the types of waste received, a liner system, leachate collection, landfill gas management, storm water run-on and runoff control, a final cover system, and financial assurance to close and monitor the facility. MSW rules require final cover installation for pre-Subtitle D facilities if they stopped receiving waste before Subtitle D was promulgated.<sup>19</sup> Pre-Subtitle D facilities that continued to receive waste after promulgation of Subtitle D must meet the more stringent final cover requirements.<sup>20</sup> The

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<sup>17</sup> Texas Health & Safety Code §§ 363.112 and 364.012 (West 2008).

<sup>18</sup> *Id.*

<sup>19</sup> 30 Tex. Admin. Code § 330.251 (repealed 2006) (current version at 30 Tex. Admin. Code § 330.453 (West 2008)).

<sup>20</sup> 30 Tex. Admin. Code § 330.253 (repealed 2006) (current version at 30 Tex. Admin. Code § 330.457 (West 2008)).

commenter did not reference any specific landfills, or indicate how their closure may be deficient under the rules.

**COMMENT 13:** (Ownership)

Linda Standley commented that the Applicant did not have a sufficient ownership interest required by TCEQ rules, and the Applicant should reveal all of its owners. David Tate (CAML), and David and Rhonda Tate considered it wrong to allow a corporate veil to hide the names of the true owners of the Applicant.

**RESPONSE 13:**

TCEQ rules require the property owner of record to submit an affidavit acknowledging the possibility of being held jointly or severally responsible for the operation, maintenance, closure, and post-closure care of the site.<sup>21</sup> TCEQ rules also require the disclosure of all persons having more than 20% ownership in a proposed facility.<sup>22</sup> The Applicant revised its application in response to the Executive Director's second Notice of Deficiency by listing two persons with more than a 20% interest in the facility. The application is a public document that may be viewed at the TCEQ's Office of the Chief Clerk or the Montgomery County Library in Conroe, Texas.

**COMMENT 14:** (Pre-application Review)

Jennifer Real commented that certain information regarding land use, community need for a facility, and proximity to residential areas should be reviewed and considered prior to the submission of an application.

**RESPONSE 14:**

TCEQ rules allow for, but do not mandate, a pre-application review for MSW permit applications.<sup>23</sup> The purpose of a pre-application review is to identify issues of concern, facilitate communication between a potential applicant and persons who would be affected by an application, and resolve as many points of conflict as possible prior to the submission of an application.<sup>24</sup> A pre-application review was not conducted for this application.

**COMMENT 15:** (Land Use Compatibility)

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<sup>21</sup> 30 Tex. Admin. Code § 330.52(b)(7)(B)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.59(d)(2)(A)(West 2008)).

<sup>22</sup> 30 Tex. Admin. Code § 330.52(b)(8)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.59(e)(West 2008)).

<sup>23</sup> 30 Tex. Admin. Code § 330.50 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.53 (West 2008)).

<sup>24</sup> 30 Tex. Admin. Code § 330.50(b) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.53(b). (West 2008)).

Samantha Baumgarten, Denise Bell, Mary Carter (CAML), Jim Dawson, Kenneth and Mary Everitt, Mary Jennings Hartt, Ernest Kaniak, Jr., Barbara Meche, Frankie Milley, Dennis O'Neil, Kanielle Reich, David Rendon, Beth Reneau, James Reneau, Leona Reneau, James Shropshire, John and Leah Smith, David and Rhonda Tate, Vicki Thompson, Karen Welch, and Jacqueline Woychesin commented that the character of the surrounding area was residential with little industry, and stated that there were other locations better suited for a landfill. Those people identified in Group 2, Group 3, Group 6, Group 7, and Paul Bacque, Vallye Chandler, Patricia and Paul Clark, Linda Collins, Tina Collins, Superintendent Leon Cubillas (Splendora I.S.D.), Deborah Doran, Barbara, Leamon, and David Dowden, Mel Fife, Norma Gibson, Dan Glassel (Blessing Residential, Inc.), Sandy and Steve Hamilton, David Henderson, Tony Herrin and Pattie McGee, State Representative Ruben Hope, Jr., Judith Horne, Ernest Kanak, Jr., Mary Lou Kirves (Texas Real Estate Group), Monte Lane, Melody Logan, Stella Luton, Ronald Maffett, Frankie Milley, Albert and Shelia Nelson, R. M. Palmer (International Paper, Realty Division), Billy Pickering, Deborah Pickering, Nora Renteria, Judge Alan Sadler, Cassandra Smith, John and Leah Smith, Jan Stallworth, Linda Stegenga, Nancy Steward, David Tate (CAML), David and Rhonda Tate, Vicki Thompson, Billy Wagnon, Michael Walton, Marcia Warner, Karen Welch, Sabrina Westerfeld, Margie Wood, and Paul Zylman commented that residential and economic development had been and would continue to be negatively affected if the permit was granted. State Senator Robert Nichols, Vallye W. Chandler, Jim Dawson, Jennifer Real, Allen and Joyce Selph, and James Walkinshaw expressed their concern about the proximity of the landfill to residential areas. R. M. Palmer (International Paper, Realty Division), David Tate (CAML), and Michael Walton were concerned that a landfill would restrict future land use and development. David Rendon and Nora Renteria were concerned that the landfill would attract other industrial activity, low-quality development, and more landfills. County Commissioner Ed Rinehart said that the area was rapidly growing, and commented that the application should have looked farther than a one-mile radius. Judge Alan Sadler commented that additional development in the area was being planned.

Mary Carter (CAML), Deborah Doran, Duane and Tracy Hamilton, Reverend Jim Luton, County Commissioner Ed Rinehart, Linda Standley, Rhonda Tate, Michael Walton, and Jacqueline Woychesin commented that they were concerned about where the site was located and its compatibility with surrounding land use. Specifically, concern was expressed about the site's proximity to residences, daycare facilities, churches, and community centers; if the location complied with TCEQ rules; and if the Applicant could demonstrate compatibility with existing land uses and development patterns. Additionally, there were concerns that the TCEQ based its approval on site engineering and not on land use compatibility, and that the application was inconsistent with regional planning goals. Those people identified in Group 1 and Donna Vandermoleni commented that they were concerned about the landfill being located in a rapidly growing community. David Tate (CAML) was concerned that the Applicant had not shown that the landfill would be compatible with existing land use or community growth patterns.

Those people identified in Group 11 and CAML, Deborah Doran, Mary Jennings Hartt, Wayne Kocurek, Judge Alan Sadler, Linda Standley, and Linda Stegenga commented that the area had experienced recent growth, the application misrepresented the actual population because the Applicant used an outdated land use development study, and the aerial count of houses was inaccurate due to the dense tree cover. Ken Burling commented that the Applicant had presented demographic information on maps from the 1960s and 1970s at a public meeting, and that this information should be updated. Mary Carter (CAML) commented that the Applicant had failed to demonstrate that the landfill would be compatible with existing land use, community growth patterns, and with growth trends of the nearest community. Ms. Carter also commented that the landfill was bound on the west by the town of Cut and Shoot, which had grown dramatically since the 2000 census; adding over 600 home sites, with a projected additional 450 homes within the next two years. Those people identified in Group 1 and County Commissioner Ed Rinehart, Mary Carter (CAML), John and Leah Smith, and Michael Walton commented that the application did not reflect the rapid residential growth of the communities of Security and Midway. Linda Stegenga commented that the Applicant had not updated their application with regards to growth patterns since its original submittal. CAML commented that the facility failed to conform with the regional solid waste management plan developed by H-GAC.

Those people identified in Group 11 and Minnie and Normane Kaatz, Wayne Kocurek, Steven Matthews, Albert and Shelia Nelson, Nora Renteria, Judge Alan Sadler, Anita Severa, John Smith, Rhonda Tate, Billy Wagnon, Karen Welch and Jacqueline Woychesin commented that Montgomery County should not be the dumping ground for Houston. Linda Standley commented that the landfill's service area should only encompass Montgomery County.

#### **RESPONSE 15:**

State law and TCEQ rules do not provide any authority to evaluate alternative locations as part of an MSW landfill permit application review. The rules state that "a primary concern is that the use of any land for an MSW site not adversely impact human health or the environment. The impact of the site upon a city, community, group of property owners, or individuals must be considered in terms of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest."<sup>25</sup> The Applicant is required to submit information regarding: zoning at the site and in the vicinity of the site; the character of the surrounding land uses within one mile of the proposed facility; growth trends of the nearest community with directions of major development; the proximity to residences and other uses, such as schools, churches, cemeteries, historic structures and sites, archeologically significant sites, sites that have exceptional aesthetic quality; the approximate number of residences and business establishments within one mile of the proposed facility, including the distances and directions to the nearest residences and businesses; and a description and discussion of all

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<sup>25</sup> 30 Tex. Admin. Code § 330.53(b)(8)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.61(h)(West 2008)).

known wells within 500 feet of the proposed facility to assist the Executive Director in determining potential adverse impact.<sup>26</sup>

The initial application indicated that there were "an estimated 410 residences or other habitable structures" within one mile of the proposed facility. This number was based primarily on aerial photographs. The initial application also indicated that of those approximately 410 structures, there were 256 residences. The application was then amended in November of 2006, and based on new land use information the application was revised to indicate that approximately 421 structures were located within one mile of the proposed facility, 267 of which were residences.

Part II of the application includes information from the two most recent censuses, occurring in 1990 and 2000, as well as population information from the nearest incorporated community, Cut and Shoot, gathered in 2003 and 2005. The application also discusses the challenge of assessing growth trends for the nearest unincorporated community, Midway. The Applicant has provided the required information and, based on that information, the Executive Director has determined that the draft permit is protective of human health and safety, and the environment, in the surrounding community. Issues of community morale and environmental justice are not addressed by TCEQ rules.

The Executive Director is unaware of an existing day care or church within one mile of the proposed facility. A comment provided at the second public meeting indicated that there were plans to construct a church on SH 105, within one mile of the proposed facility. TCEQ rules do not authorize the Executive Director to consider proposed or planned construction when evaluating potential adverse impacts resulting from the site.<sup>27</sup> The H-GAC did not provide any information that would lead the Executive Director to conclude that the facility would not comply with the regional solid waste management plan.

COMMENT 16: (Access and Community Safety)

State Representative Ruben Hope, Jr., County Commissioner Ed Rinehart, and Luine Hancock (State Senator Robert Nickols) commented that SH 105 was currently congested, needed to be widened, and that additional truck traffic would only exacerbate the problem. Roger Adams, Ruth Allen, Stephen Barfield, Johnny Beall, Karen Beall, Floyd C. Collins, Anneliese Enriquez, Steven Gothard, Mark Grimes, Martha Guilbeaux, Kenny Hamby, Deborah Heuermann, Amber Hunt, Crystal Kelsoe, Floralee Lovell, Ronald Maffett, Albert A. Nelson, Shelia Nelson, Leda O'Neil, Sylvia Padilla, the Honorable Alan B. Sadler, James Singleton, Ciara Smalling, Sherry Smalling, Nikki Somplasky, George Standley, Ricky Standley, Joseph Tanseu, Dan Wallace, Shaun Wallace, Mike Walton, William Waters, Cynthia Watford, Shawn Watford, James Watkins, Angela Welch, Dale Welch, commented that they were concerned about traffic around the proposed facility. Ralph E. Benedict II, Bonnie Braswell, Ken Burling,

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<sup>26</sup> Id.

<sup>27</sup> Id.

Vallye W. Chandler, Sherman J. Chenier-Cleveland, Ken Van Dine, Elizabeth Dotson, Belinda Faulkner, Thomas Harrison, David H. Ludwig, Jr., Mark Matheny, Barbara Mayeux, Lisa Reasor, County Commissioner Ed Rinehart, David Rondon, David W. Sargent, Jr., Alan P. Schuler, Anita Severa, Melvin Sharpe, Lorraine and Mikel Morris, R. M. Palmer, Janice Walkens, Karen Welch, and Charlotte and James Williams commented that they were concerned about traffic on SH 105. Christine Ludwig, Janice Walkens, and James E. Walkinshaw commented that it was difficult to pull onto or cross SH 105 due the amount of traffic.

Ken Burling, Erin Dotson, Ralph Drinkwater Floyd, and Linda Standley commented that they were concerned about adding the estimated 600 trucks to the current traffic volumes. Mrs. R. A. Benedict, Erin Dotson, Alberto Enriquez, Thornton Ireland, Patsy Matthews, Lisa Reasor, Lorraine Romero, Linda Standley, Rhonda S. Tate, and Karen J. Welch commented that they were concerned that the increase in traffic would result in additional traffic accidents and injuries. Rhonda Tate commented that the estimated additional 600 trucks was effectively an additional 1,200 trucks on SH 105, because each truck would arrive and then leave the facility via SH 105.

Shelia Freeman commented that the traffic study, consisting of a three-hour traffic count between 2:00 p.m. and 5:00 p.m., was inadequate; and should have been conducted on a 24-hour basis. James M. Lamendolis commented that the traffic study for SH 105 was inadequate. Lorraine Romero asked whether the new traffic study would consider the growth of the planned 5,600-acre Peachcreek Plantation community. David Rondon commented that he was concerned about the additional time that would be required to drive to work as a result of additional traffic. Daniel Heil, State Representative Ruben Hope, Jr., Thornton Ireland, Mary Lou Kirves, David H. Ludwig, Jr., Patsy Matthews, R. M. Palmer, Carolyn Sue and Lawrence Rains, County Commissioner Ed Rinehart, John Romero, Jr., Lorraine Romero, Alan P. Schuler, James E. Walkinshaw, Karen Welch, and Charlotte and James Williams commented that they were concerned about traffic on North Walker Road. Anita Severa asked who would pay for road repairs caused by truck traffic, and commented that SH 105 should be widened before the facility was opened. Mary Carter (CAML) commented that local residents recommended that traffic studies be conducted while school was in session to accurately reflect traffic patterns in the area. Ms. Carter also commented that many schools would be affected by the increase in traffic in the area; specifically, the Caney Creek-Moorehead-Grangerland Regional School Complex, Austin Elementary, and Caney Elementary-Keefer Croosing Middle School Complex. Alan P. Schuler commented that additional traffic risks to the residents should be quantified via statistical analysis, and be made public. Linda Stegenga commented that the Applicant had not provided plans to prevent waste-carrying vehicles from accessing the proposed landfill site from a newly developing subdivision directly north of the landfill, which would result in vehicles traveling south on North Walker Road.

Linda Standley commented that North Duck Creek Road, which had been designated as an alternate route, was windy with dangerous curves and blind spots; and asked if the road conditions on North Duck Creek Road were considered. Thomas Harrison commented that he was concerned about traffic congestion on North Duck



Creek Road. State Representative Brandon Creighton asked whether the TCEQ has jurisdiction over truck traffic associated with the landfill. Those people identified in Group 1 commented that the amended roadway configuration would cause dangerous traffic congestion. Those people identified in Group 1 commented that the Applicant's amendment increased the number of waste vehicles into the proposed site, and failed to adequately quantify the traffic on North Walker Road or the impact of landfill traffic on local traffic patterns. John and Leah Smith commented that the additional traffic would be dangerous to student drivers and school buses on SH 105.

Those people identified in Group 2, Group 3, Group 5, Group 6, Group 7, and Group 10, and Enedina Alvarez, Willie Mae Atkinson, Melissa Barton, Thomas Beers, Denise Bell, Phillip Branch, Mary Carter (CAML), Vallye Chandler, Linda Collins, Tina Collins, Patricia Crofton, Superintendent Leon Cubillas (Splendora I.S.D.), Terry Dazart, Jim Dawson, Deborah Doran, Mel Fife, Norma Gibson, Duane and Tracy Hamilton, Sandy and Steve Hamilton, Mary Jennings Hartt, Laurie Headings, David Henderson, Tony Herrin and Pattie McGee, State Representative Ruben Hope, Jr., Mary Lou Kirves (Texas Real Estate Group), Wayne Kocurek, Monte Lane, Phillip Lindsey, Melody Logan, Christene Ludwig, Ronald Maffett, Patsy Matthews, Steven Matthews, Barbara Mayeux, Travis Mayeux, Barbara McClean, Barbara Meche, Frankie Milley, Lee Moulder, Albert and Shelia Nelson, Marigrace O'Neil, Trudilee O'Neil, R. M. Palmer (International Paper, Realty Division), Billy Pickering, Deborah Pickering, Greg Poole, Jason Reaves, Danielle Reich, Beth Reneau, James Reneau, Kyle Reneau, Leona Reneau, Nora Renteria, County Commissioner Ed Rinehart, Carla Robles, Pedro Rosales, Jr., Judge Alan Sadler, Bob and Lynda Sasser, Anita Severa, James Shropshire, Arlinda and Billy Smith, Cassandra Smith, Jaren and Logann Smith, John and Leah Smith, Robert Smith, Linda Standley, Linda Stegenga, Nancy Steward, Thomas Steward, Donald Stockton (Conroe I.S.D.), David Tate (CAML), John Tate, Jr., Rhonda Tate, Vicki Thompson, Billy Wagnon, Michael Walton, Janice Watkins, Jacqueline Woychesin, Clifford Welch, Joann and Thomas Welch, Karen Welch, Sabrina Westerfeld, Charlotte Williams, Ladgie Zotyka, Jr., and Paul Zylman commented that the roads that provided access to the landfill and to the community were the same, and the increased use would cause the roads to have safety and structural problems endangering all who used the road. Special concern was expressed regarding children at play and children traveling to and from school. CAML specifically expressed concern about the Caney Creek-Moorehead-Grangerland Regional School Complex, Austin Elementary, and New Caney Elementary-Keefer Crossing Middle School. CAML and Mary Carter (CAML) commented that the Applicant had failed to provide adequate documentation on the availability and adequacy of roads used to access the site. Ms. Carter commented that CAML was also concerned about the use of North Walker Road to access the landfill. Ms. Carter also commented that a dedicated roadway specific to this landfill would be much safer, and more satisfactory to the community. County Commissioner Ed Rinehart and Judge Alan Sadler commented that, because of the residential character of the neighborhood, reconstruction of the road would not ensure safety.

Kelli and Lee Moulder asked if there would be a way to monitor and maintain the speed limit on the road for the safety of children and pedestrians, and asked if there

would be a four-way stop light at Walker Road and SH 105. Penny Cooper commented that the truckers should be paid hourly instead of per load to decrease their incentive for speeding, traffic should be monitored, and speed bumps should be installed. Patricia Crofton commented that underpaid and overworked truckers posed a threat to the community's safety. CAML, County Commissioner Ed Rinehart, John and Leah Smith, Linda Stegenga, and Karen Welch commented that if the permit was granted there should be a dedicated road that provided direct access for landfill traffic to SH 105. John Smith asked if trucks would use SH 105 to access the landfill or if the trucks would take short cuts. CAML and John and Leah Smith commented that any plan to abate traffic should consider the expansion of existing landfills and traffic studies should be performed while school was in session. Ken Burling and Charles Buzbee asked for the number of traffic fatalities on North Walker Road, and if those fatalities would be increased with the addition of landfill traffic. Melvin Sharpe commented that the discussion on widening North Walker Road did not consider the accident rate and other issues. CAML commented that H-GAC stated the permit should be conditioned on North Walker Road being improved to accommodate 80,000-pound weight-loads and increasing the sight distance at the reverse curve. CAML commented that firm plans and agreements addressing this requirement should be incorporated into the permit; and that traffic studies should be completed concerning the need for additional traffic controls and safety measures. David Tate (CAML) and David and Rhonda Tate commented that the application was based on an unrealistic plan for four lanes for Highway 105.

Johnny and Karen Beall, Mary Carter (CAML), Shelia Freeman, and Paul Zylman asked who would provide the funds to widen North Walker Road, and who determined the value of condemned land. Mary Carter (CAML) and Terry Dazart asked who would bear the cost to repair North Walker Road, and commented that it should not be the taxpayer's burden. Terry Dazart was concerned that the road bed of North Walker Road was corrupt because of standing water that was present for most of the year. Melvin Sharpe commented that the information from Texas Department of Transportation (TxDOT) regarding SH 105 was inaccurate, and should not be used. CAML and Jacqueline Woychesin commented that SH 105 had been documented as one of the most dangerous roads in Montgomery County due to the growth of the area. Mary Carter (CAML) commented that Department of Public Safety had been quoted in several Conroe Courier articles stating that SH 105 between Conroe and Cleveland was one of the most dangerous roads in Montgomery County. Karen Welch commented that TxDOT traffic studies did not seem to be accurate. Elizabeth Dotson, Matt McLean, and Trudilee O'Neil asked where the new access road would meet SH 105.

#### RESPONSE 16:

TCEQ rules state that "a primary concern is that the use of any land for an MSW site not adversely impact human health or the environment. The impact of the site upon a city, community, group of property owners, or individuals must be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other

factors associated with the public interest.”<sup>28</sup> In accordance with this requirement, an applicant must: provide data on the availability and adequacy of roads that the applicant will use to access the site; provide data on the volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the proposed facility; and project the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility.<sup>29</sup> An applicant is also required to submit documentation of coordination with TxDOT for traffic and location restrictions.<sup>30</sup> These rules do not require an applicant to provide information about highway fatalities on nearby roads.

On August 21, 2008, the MSW Permits Section received additional changes to the application. These changes revise the entry path to the landfill. The application had shown that entry to the landfill would be from North Walker Road, 1,600 feet north of SH 105, to a private road on property that is owned by the Applicant, but outside the permit boundary, then to the southern edge of the permit boundary. The proposed entry path no longer uses North Walker Road. The application indicates entry through a modified private road, again located on property that is owned by the Applicant outside of the permit boundary, directly from SH 105. The new entrance road will intersect with SH 105 approximately 2,800 feet west of SH 105 and North Walker Road.

The Applicant has provided the required traffic information in its Transportation Study, located in Appendix A of Part II of the application; and the information is discussed and summarized in Section 1.7 of Part II of the application. Page II-16 indicates that as of 2006, SH 105 is a D Level of Service roadway. Table 2 of the Transportation Study shows existing traffic volumes for SH 105. Table 3 of the Transportation Study summarizes a school bus count on SH 105 at North Walker Road. The data was collected between 6:30 a.m. and 9:00 a.m. and 2:30 p.m. and 6:30 p.m. on October 19, 2006, to account for travel to and from schools in the area. Table 3 indicates that 57 school buses traveled SH 105 at North Walker Road during the data collection period.

The Transportation Study does not address specific area development, such as Peachcreek Plantation, but assumes a 2% annual growth rate based on information provided by TxDOT. TCEQ does not have authority over SH 105, and may not require widening prior to the opening of the facility. Had TxDOT requested that such widening take place during the Applicant’s coordination with the agency, TCEQ would have included that requirement in the draft permit. This coordination information is provided in Appendix B of Part II of the application.

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<sup>28</sup> 30 Tex. Admin. Code § 330.53(b)(8)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.61(h)(West 2008)).

<sup>29</sup> 30 Tex. Admin. Code § 330.53(b)(9)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.61(i)(West 2008)).

<sup>30</sup> 30 Tex. Admin. Code § 330.51(b)(6)(C)(repealed 2006)(current version at Tex. Admin. Code § 330.61(i)(4)(West 2008)).

There is no indication that North Duck Creek Road will be used to access the facility; therefore, the Transportation Study does not reference North Duck Creek Road. Road repairs to state highways are funded through state and federal taxes. The TCEQ has no jurisdiction over highway repairs or their funding. The Texas Department of Public Safety and local law enforcement has jurisdiction over trucks traveling on public roads. While trash trucks may serve areas accessible only by North Walker Road, the current Transportation Study indicates that North Walker Road will not be used to access the facility.

COMMENT 17: (Drivers)

Laurie Headings was concerned that the landfill would bring truck drivers with criminal histories and sexual predators into the community.

RESPONSE 17:

TCEQ rules were promulgated to ensure that an MSW facility does not pose a health risk to the surrounding community. A proposed sites' impact, if any, on crime in the surrounding community is outside the scope of the normal evaluation of an MSW permit application. The issuance of the proposed draft permit does not authorize any sort of criminal activity.

COMMENT 18: (Fire & Other Natural Disasters)

Gary Biddle commented that he was concerned about landfill fires and open burning. Claudia Hubbard, Nora Renteria, Carla Robles, and Jacqueline Woychesin commented that they were concerned about a fire at the facility; specifically, how it would affect residents, the evacuation route for North Walker Road, and fire fighters' access to the landfill. Penn Cooper was concerned about the height of the landfill, and how it would withstand a tornado.

RESPONSE 18:

With limited exceptions, the open burning of solid waste is prohibited at all MSW facilities.<sup>31</sup> As part of its Site Operating Plan (SOP), the Applicant must provide a Fire Protection Plan that identifies the fire protection standards to be used at the facility and how personnel are trained in the control of small fires.<sup>32</sup> TCEQ rules also require that the owner or operator of an MSW facility maintain a source of earthen material in such a manner that it is available at all times to extinguish any fires.<sup>33</sup> The Executive Director has reviewed the Applicant's Fire Protection Plan, and determined that it meets all

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<sup>31</sup> 30 Tex. Admin. Code § 330.5(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.15(d) (West 2008)).

<sup>32</sup> 30 Tex. Admin. Code §§ 330.114(6) (repealed 2006)(current version at 30 Tex. Admin. Code 330.127 (West 2008)) & 330.115 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.129 (West 2008)).

<sup>33</sup>30 Tex. Admin. Code § 330.115 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.129 (West 2008)).

applicable TCEQ rules. TCEQ rules do not have any provisions that require a contingency plan in the event of a tornado.

**COMMENT 19:** (Accepted Waste & Illegal Dumping)

Those people identified in Group 11 and Doug Crofton commented that the public should be furnished with a list of what the landfill would accept, because some construction material contained toxic substances. Sheila Freeman, Trudilee O'Neil, and John and Leah Smith, and Linda Stegenga were concerned that construction and demolition waste would contain asbestos, lead based paint, and arsenic. Susan Lane and Jennifer Real commented that gate attendants would not be able to detect which construction and demolition materials contained asbestos, lead based paint, mercury, and other carcinogens. James Clark, Ralph Drinkwater Floyd, Dr. Dellanira Rangel, Anita Severa, Alan Schuler, and Randall Weaver were concerned about the adequacy of waste acceptance inspections to prevent the receipt of prohibited wastes. Jacqueline Woychesin was concerned that the landfill would accept trash. James Watkins was concerned that the landfill would accept toxic waste. Doug Crofton was concerned about who would monitor the waste accepted. Vallye Chandler, Barbara, Leamon, and David Dowden, L.V. Dowden, Ernest Kanak, Jr., Barbara Mayeux, Frankie Milley, Nora Renteria, Anita Severa, Thomas Steward, Michael Walton, and Jacqueline Woychesin were concerned about whether security measures and monitoring would prevent illegal dumping. County Commissioner Ed Rinehart commented that more should be done to stop illegal landfills. Eric Dotson commented that people who do not wish to pay the dumping fee will end up dumping waste on roads near the landfill. Anita Severa commented that the landfill would not stop illegal dumping. State Representative Brandon Creighton asked how the TCEQ confirmed that an applicant would only accept approved wastes. Representative Creighton also asked what the TCEQ could do if the Applicant does not comply with TCEQ rules, and how strong was the enforcement arm of the TCEQ. John and Leah Smith commented that they were concerned about which counties the accepted waste stream would originate from.

**RESPONSE 19:**

An applicant for an MSW facility is required to submit a Site Operating Plan (SOP) that sets out how the applicant intends to comply with the basic site operating and management requirements imposed by TCEQ rules.<sup>34</sup> The proposed SOP indicates that the facility will be fenced and access will be controlled at the site entrance by a gate that is locked outside of normal operating hours. During operating hours, a gate attendant will be stationed in the gatehouse adjacent to the landfill access road to screen incoming waste loads to prevent the disposal of prohibited wastes. Facility employees will also receive training on screening incoming waste, and facility personnel will be present at the active disposal area during the unloading of all disposal vehicles. The operation standards and the submitted SOP should ensure that only allowed waste is accepted at the facility.

<sup>34</sup> 30 Tex. Admin. Code §§ 330.57 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.65 (West 2008) & 330.114 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.127 (West 2008)).

TCEQ rules impose restrictions on the acceptable waste stream for Type IV landfills.<sup>35</sup> The need for an MSW disposal facility in a particular area is usually addressed by the local council of governments, and the Houston-Galveston Area Council has developed a regional plan that indicates that an additional Type IV MSW landfill is needed in Montgomery County. The application indicates that the service area for the proposed facility is estimated to include Montgomery, Liberty, Harris, Walker, and San Jacinto Counties.

Illegal dumping in Montgomery County should be reported to the TCEQ by calling toll-free, 1-888-777-3186 or by calling the TCEQ Region 12 Office in Houston at (713) 767-3500. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints>. The TCEQ may conduct a facility inspection based on properly filed citizen complaint. A notice of violation or enforcement may be issued by the appropriate TCEQ Regional Office for non-compliance with TCEQ rules or provisions of a facility's permit. Issued notices of violation may result in the issuance of an enforcement order, which can include fines and penalties.

**COMMENT 20:** (Debris)

Anneliese Enriquez commented that she was concerned about windblown waste ending up on her property. Johnny and Karen Beall, Norma Gibson, Linda Collins, Tina Collins, Terry Dazart, Mary Jennings Hartt, Barbara Mayeux, Barbara Meche, Lee Moulder, Albert and Shelia Nelson, Kyle Reneau, Judge Alan Sadler, Daniel Vargas, Billy Wagon, Michael Walton, Karen Welch, and Ladgie Zotyka, Jr. commented that they were concerned about who would clean up debris from trucks traveling on North Walker Road.

**RESPONSE 20:**

TCEQ rules require windblown material and litter to be collected and returned to the active disposal area, or working face, as necessary to control unhealthy, unsafe, or unsightly conditions.<sup>36</sup> This includes windblown materials resulting from unloading, spreading, and compacting operations and litter scattered from vehicles. Facility owners or operators are also required to take steps to ensure that vehicles hauling waste to their facility are enclosed or covered by tarpaulins, nets, or other means to prevent the escape of any part of the load.<sup>37</sup> The SOP submitted with the application indicates that waste transportation vehicles using the facility will be encouraged to have adequate covers or other means of containment for the wastes they transport; repeat offenders will be

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<sup>35</sup> 30 Tex. Admin. Code § 330.41(e) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.5(a)(2) (West 2008)).

<sup>36</sup> 30 Tex. Admin. Code § 330.120 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.139 (West 2008)).

<sup>37</sup> 30 Tex. Admin. Code § 330.123 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.145 (West 2008)).

reported to the Texas Department of Public Safety and the Montgomery County Sheriff's Department; and solid waste that has been deposited at the working face will be spread and compacted as rapidly as possible to minimize the amount of time that waste is exposed to wind. Additionally, TCEQ rules require that, on days when the facility is in operation, at least once per day landfill personnel will collect litter or waste materials along the right-of-way of public access roads serving the facility from a distance of two miles in either direction from any entrances used for the delivery of waste to the facility.<sup>38</sup>

COMMENT 21: (Nuisance)

Tina Collins, Erin Dotson, Cody Weaver, Randall Waver, James M. Lamendolis, and Ruben Selph commented that they were concerned about noise from the operation of the landfill. Floyd Collins, Tina Collins, Linda Kay Crandall, Joshua Davis, Erin Dotson, Terri Gandy, Kenny Hamby, Deborah Heuermann, Crystal Kelsoe, Bob McDaniel, Terry Rollins, Linda Stegenga, Dan Wallace, Shaun Wallace, Shawn Watford, and Randall Weaver commented that they were concerned about odors emanating from the landfill. Paul Bacque, Elvira and Yolanda Cervantez, Vallye Chandler, Ernest Kanack, Jr., Deborah Doran, Wayne Kockurek, Phillip Lindsey, Francisco Ramirez, Danielle Reich, Rhonda Tate, and Michael Walton commented that they were concerned that the landfill would emit bad odors and be an eyesore. Michael Walton was concerned that the landfill would attract rodents and vermin that would affect the health and property of nearby residents. Travis Selph was concerned that the retention ponds would contribute to insect-borne disease. Sandy and Steve Hamilton, Phillip Lindsey, Melody Logan, Steven Matthews, Ruben Selph, Rhonda Tate, Michael Walton, and Paul Zylman commented that they were concerned about the increase of noise due to the landfill. CAML, Steven Matthews, Anita Severa, John and Leah Smith were concerned about the size of the landfill being too large. CAML and John and Leah Smith commented that they were concerned that the landfill's aerial build-up would exceed tree cover resulting in the destruction of a natural buffer between the landfill and the community.

RESPONSE 21:

While the TCEQ does not have specific rules addressing noise at MSW facilities, the required minimum 50-foot buffer zone is expected to reduce the noise level at the facility boundary.<sup>39</sup> The application indicates that the proposed facility meets the buffer zone distance requirements.

Type IV landfills do not typically generate excessive odors, due to the fact that they are not authorized to accept putrescible waste.<sup>40</sup> There are several TCEQ rules

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<sup>38</sup> 30 Tex. Admin. Code § 330.120 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.139 (West 2008)).

<sup>39</sup> 30 Tex. Admin. Code § 330.121(b) (repealed 2006)(current version at 330.543(b) (West 2008)).

<sup>40</sup> "Putrescible waste" is defined as organic wastes, such as garbage, wastewater treatment plant sludge, and grease trap waste, that is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or is capable of providing food for or attracting birds, animals, and disease vectors. 30

aimed at reducing odors by: controlling windblown waste and litter;<sup>41</sup> establishing buffer zones;<sup>42</sup> prohibiting the open burning of solid waste;<sup>43</sup> requiring an odor management plan;<sup>44</sup> preventing ponded water;<sup>45</sup> using all-weather roads;<sup>46</sup> dust suppression;<sup>47</sup> and weekly cover to control disease vectors, fires, odors, windblown litter or waste, and scavenging.<sup>48</sup> The Applicant's SOP describes procedures that should address and reduce possible nuisance conditions.

TCEQ rules do not directly address or limit the size of a landfill. The height of a landfill is limited indirectly by the geometry of the waste footprint and the maximum allowable angle of the side slopes of one vertical foot for every four horizontal feet. Therefore, the shortest dimension of the waste unit limits the height of the landfill.

**COMMENT 22:** (Height & Visual Screening)

Those people identified in Group 1 and Mary Carter (CAML), Rhonda Tate, and Mike Walton commented that the height of the proposed landfill was excessive in light of the surrounding terrain, despite the existing tree cover. Cody Weaver commented that he would be able to see the 200 foot tall hill from his backyard. Linda Stegenga commented that if the 200 foot landfill was allowed, many residences would be shaded before the sun goes down. State Representative Brandon Creighton asked what the maximum allowable height was under TCEQ regulations. Shawn Watford commented that the landfill would be unsightly. Commissioner Ed Rinehart, and Charlotte and James Williams were concerned about the height of the proposed landfill.

**RESPONSE 22:**

The Executive Director has no specific authority under the Texas Solid Waste Disposal Act (TSWDA) to limit the height of a landfill or to consider visual impacts. The application indicates that visual screening will be accomplished by maintaining forested areas around the disposal area. This includes approximately 300 feet of forested buffer between the disposal area and North Walker Road. Height is limited indirectly by

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Tex. Admin. Code § 330.2(108) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.3(119) (West 2008)).

<sup>41</sup> 30 Tex. Admin. Code § 330.120 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.139 (West 2008)).

<sup>42</sup> 30 Tex. Admin. Code § 330.121(b) (repealed 2006)(current version at 330.543(b) (West 2008)).

<sup>43</sup> 30 Tex. Admin. Code § 330.5(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.15(d) (West 2008)).

<sup>44</sup> 30 Tex. Admin. Code § 330.125(b) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.149 (West 2008)).

<sup>45</sup> 30 Tex. Admin. Code § 330.134 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.167 (West 2008)).

<sup>46</sup> 30 Tex. Admin. Code § 330.127(a) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.153(a) (West 2008)).

<sup>47</sup> 30 Tex. Admin. Code § 330.127(b) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.153(b) (West 2008)).

<sup>48</sup> 30 Tex. Admin. Code § 330.133(a) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.165(a)&(b) (West 2008)).



the geometry of the waste footprint and the maximum allowable angle of the sideslopes of one vertical foot for every four horizontal feet. If the proposed landfill is constructed and operated as shown in the application and as required by regulation, including providing proper compaction of waste, placement of weekly cover, and construction of final cover meeting allowable sideslope angles, the Executive Director expects current engineering practices to be adequate to operate the facility at the proposed height.

COMMENT 23: (Vectors)

Gary Biddle commented that the landfill would attract wild hogs, coyotes, rats, mice, flies, and mosquitoes. Joshua Davis commented that the landfill would attract rodents. Travis Selph commented that he was concerned with insect borne diseases, specifically, the West Nile virus. Mr. Selph also asked what would be done to combat mosquitoes.

RESPONSE 23:

Type IV landfills do not typically attract vectors or scavengers, due to the fact that they are not authorized to accept putrescible waste.<sup>49</sup> TCEQ rules require MSW facility operators to take the appropriate steps to prevent and control on-site populations of disease vectors and scavengers by using proper compaction and cover procedures.<sup>50</sup> Type IV facility operators are required to apply six inches of well-compacted earthen cover at least once a week to control disease vectors.<sup>51</sup> Facility operators must also prevent ponded water, regardless of its origin, from accumulating over waste at the landfill.<sup>52</sup> The Applicant's SOP states that the facility will perform a weekly inspection for the presence of vectors, and will retain a pest control specialist should vectors be observed.

COMMENT 24: (Floodplain Maps)

Those people identified in Group 4 and Ken Burling, Mary Carter (CAML), Jim Dawson, Mel Fife, Ernest Kanak, Jr., Wayne Kocurek, Travis Mayeux, Carla Robles, Judge Alan Sadler, John and Leah Smith, Linda Standley, David Stegenga, Linda Stegenga, David Tate (CAML), and Kern Welch commented that the application was reviewed using old floodplain maps. Those people identified in Group 4 commented that the TCEQ should request new floodplain maps from the Federal Emergency Management

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<sup>49</sup> "Putrescible waste" is defined as organic wastes, such as garbage, wastewater treatment plant sludge, and grease trap waste, that is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or is capable of providing food for or attracting birds, animals, and disease vectors. 30 Tex. Admin. Code § 330.2(108) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.3(119) (West 2008)).

<sup>50</sup> 30 Tex. Admin. Code § 330.126 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.151 (West 2008)).

<sup>51</sup> 30 Tex. Admin. Code § 330.133(a) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.165(a)&(b) (West 2008)).

<sup>52</sup> 30 Tex. Admin. Code § 330.134 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.167 (West 2008)).

Agency (FEMA). Wayne Kocurek commented that a current survey of flooding in the area needed to be considered. Ernest Kanak, Jr. asked what the consequences would be if the landfill was in an identified floodplain after FEMA revised the floodplain maps.

**RESPONSE 24:**

The Applicant provided information, based on FEMA maps, concerning the 100-year floodplain as required by TCEQ rules.<sup>53</sup> However, the FEMA maps were based on 1996 data, and the floodplain in the northern section of the proposed permit boundary was estimated without baseline evaluations. Due to these issues, and pursuant to TCEQ rules, the Executive Director required the Applicant to re-estimate the 100-year floodplain.<sup>54</sup> The floodplain was expanded as a result of this process to include area on the north side of the proposed facility. Therefore, the changes that have occurred in the area since the FEMA maps were updated have been addressed. The landfill footprint will not be within the 100-year floodplain.

Under federal statutes, county governments are authorized to petition FEMA for an update of FEMA's flood hazard maps. The TCEQ does not have the authority to request that FEMA update its flood hazard maps.

**COMMENT 25: (Flooding)**

Melvin Sharpe commented that culverts in and around Adcock Acres and South Williams Road filled up and flooded the roadways, and that the storm water detention ponds should hold that flood water. Trudilee O'Neil commented that there was no way that the Applicant could stop the flooding that occurred in the two creeks that ran through the site property. Ralph Drinkwater Floyd commented that flooding in the area was common, and it was possible that a heavy rain would flood the site and bust the landfill. State Representative Ruben Hope, Jr. commented that rain water would flow off of the landfill, into the creeks, and flood people's property. Rhonda Tate commented that the 200 foot height of the landfill would cause more flooding to occur at nearby residences. Roger Adams, Mrs. R. A. Benedict, State Representative Ruben Hope, Jr., Mary Lou Kirves, Susan Lane, Christine Ludwig, Shelia Nelson, Carolyn Sue and Lawrence Rains, County Commissioner Ed Rinehart, John Romero, Jr., Lorraine Romero, David W. Sargent, Jr., Anita Severa, Nikki Somplasky, Linda Standley, Linda K. Stegenga, and Karen J. Welch commented that they were concerned about area flooding. Those people identified in Group 1 and Mary Carter (CAML) commented that the Applicant failed to provide adequate information demonstrating compliance with TCEQ rules regarding the location and quantities of surface water drainage entering, exiting, or internal to the site and areas subject to a 100-year flood. Ms. Carter also commented that the current landfill design did not adequately address surface water runoff, localized sheet flooding, or frequent flooding from the two creeks that were located along the east and west boundaries of the proposed site. State Representative Brandon Creighton asked what

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<sup>53</sup> 30 Tex. Admin. Code § 330.56(f)(4)(B)(i)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.63(c)(2)(B) (West 2008)).

<sup>54</sup> Id.

TCEQ requirements ensured that the facility did not increase flooding in the area. Carolyn Sue and Lawrence Rains commented that the landfill would destroy their watershed, increase flooding, and destroy natural drainage patterns.

Sheila Freeman, State Representative Ruben Hope, Jr., David Rendon, Melvin Sharpe, David Tate (CAML), and Karen Welch commented that the site was naturally prone to flooding. Those people identified in Group 4 and Jim Dawson, Ernest Kanak, Jr., Wayne Kocurek, Travis Mayeux, Carla Robles, Judge Alan Sadler, John and Leah Smith, Linda Standley, Linda Stegenga, Karen Welch, and Jacqueline Woychesin commented that the facility was located in a floodplain. Jim Dawson was concerned that the site was in a lowland subject to flooding and uncontrollable runoff. Mary Carter (CAML) commented that H-GAC noted local governmental officials' concerns that the landfill would increase runoff and flood risks, that there were serious drainage problems on and near North Walker Road despite adequate maintenance of drainage ditches, and that the Applicant should demonstrate that the facility would not exacerbate local flooding. Those people identified in Group 2, Group 3, Group 7, and CAML, Phillip Lindsey, and Carla Robles commented that when the timber was removed from the site a natural flood barrier would be lost, and would contribute to additional flooding. Those people identified in Group 3 and CAML commented that the destruction of wetlands would result in more flooding. Those people identified in Group 5, Group 8, Group 10, and Johnny Beall, Patricia Crofton, Deborah Doran, Terry Dautart, Shelia Freeman, Duane and Tracy Hamilton, Laurie Headings, David Henderson, Tony Herrin and Pattie McGee, Phillip Lindsey, Barbara Mayeux, Travis Mayeux, County Commissioner Ed Rinehart, Anita Severa, Melvin Sharpe, John and Leah Smith, Robert Smith, Linda Standley, Nancy Steward, Thomas Steward, Michael Walton, and Karen Welch commented that the facility would cause more flooding. CAML commented that Security and Midway may be exposed to contaminated water if flooding was not addressed. Melvin Sharpe commented that the TCEQ needed to address the flooding on the northwest side of the site. Karen Welch asked what effect the flooding would have on existing sewer lines. Those people identified in Group 9 were concerned about the possibility of property loss due to increased flooding. Laurie Headings asked what recourse a property owner would have if landfill runoff entered private property. Judge Alan Sadler, Linda Standley, David Stegenga, and David Tate (CAML) commented that the application did not contain adequate flood control, and that the application was contrary to TCEQ rules that prohibit a permitted facility from altering natural drainage patterns. Those people identified in Group 11 and Nora Renteria commented that there needed to be more studies of the effect of flooding. Melvin Sharpe commented that the facility would have a negative effect on surface water flow in the area.

Mary Carter (CAML) was concerned that increased impermeable surfaces at the proposed facility would increase runoff. CAML commented that the Applicant had failed to provide adequate information to demonstrate compliance with TCEQ rules regarding flood prevention and control during peak discharge from at least a 25-year storm. CAML commented that the Applicant failed to provide adequate information to demonstrate compliance with TCEQ rules regarding the location and quantities of surface water drainage entering, exiting, or internal to the site and the area subject to flooding by a 100-

year frequency flood, including Lawrence Creek, the tributary to Lawrence Creek, and the West Fork of Spring Branch. CAML commented that the current landfill design did not address surface water runoff, and frequent flooding from two creeks along the east and west boundaries that flowed into Security and Midway. Shelia Freeman was concerned about erosion from flooding. Kelli and Lee Moulder asked how drainage would be handled after the landfill was built, and when North Walker Road was widened.

**RESPONSE 25:**

An unregulated landfill may adversely affect flooding in two ways: by reducing flow or storage capacity of the floodplain, or by creating peak runoff in excess of natural (pre-construction) rates. To avoid these events, TCEQ rules require extensive information with regard to the effect on the 100-year floodplain and the effect that a 25-year/24-hour storm event will have on the surrounding area.<sup>55</sup> Based on the information provided by the Applicant, the Executive Director has determined that flooding will not be worsened by the construction of this facility.

**COMMENT 26:** (Liner)

Marigrace O'Neil and James Shropshire commented that the facility should be required to have a liner, and asked how water quality would be affected without the presence of a liner. Those people identified in Group 10 and Mel Fife commented that the excavation was near a fault line that could cause the land to shift and the liner to crack. Linda Collins, Mel Fife, Norma Gibson, Duane and Tracy Hamilton, Ernest Kanak, Jr., Albert and Shelia Nelson, John and Leah Smith, Billy Wagnon, and Karen Welch were concerned that the liner might not be sufficient and crack. John and Leah Smith asked if the liner for this site was usual for this type of landfill. CAML commented that the Applicant had failed to provide adequate information to demonstrate that the contaminated storage pond would have an approved liner covering the bottom and side slopes, as required by TCEQ rules. Leah Smith commented that there was no design possible that would protect the health and safety of the community and natural resources, and that the landfill could not be designed to account for the hydrology and geology of the area.

Mary Carter (CAML) and Rhonda Tate questioned the adequacy of the proposed liner. Ms. Carter also commented that the design, composition, and structural integrity of the liner were questionable, and that the Applicant could not scientifically demonstrate that the liner would not fail over the life of the landfill. Trudilee O'Neil commented that the use of clay did not constitute a liner, and that there was not a sufficient volume of clay for the liner. John and Leah Smith commented that the clay liner would not adequately protect the underlying groundwater. Mike Walton asked how a three foot clay liner would prevent perforation by a bulldozer pushing lumber, piping, and beam debris. Shelia Freeman asked how groundwater was kept out of the excavation while the liner was being constructed. Chrispen Johnson commented that if the liner and waste was

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<sup>55</sup> 30 Tex. Admin. Code §§ 330.56(f) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.63(c)&(d) (West 2008)).

below the water table, waste or contaminants would get into the groundwater. John Romero, Jr. and Lorraine Romero commented that they were concerned that the liner would not prevent groundwater contamination.

#### RESPONSE 26:

The proposed facility is designed to minimize contamination of groundwater by the installation of a liner system and a groundwater monitoring system. The liner system design consists of a 36-inch-thick compacted clay liner with a maximum hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second (cm/sec) overlain by a 12-inch-thick layer of protective cover soil. The proposed liner meets the requirements for Type IV landfills.<sup>56</sup> The Applicant has proposed a dual groundwater monitoring system that will monitor both the Chicot and Evangeline aquifers, identified in the application as Strata II and IV. Nearly all of the 165 wells identified within 1 mile of the proposed facility are screened in one of these aquifers.

In the unlikely event of a liner failure, the permittee will be required to remove and reconstruct the damaged liner area and submit a Soil Liner Evaluation Report to the Commission for review. If a release of leachate is detected in the groundwater, the permittee will be required to take corrective action.<sup>57</sup>

The clay used to construct the liner will be obtained from on-site excavation material. The Geology report indicates that Strata I, II, and III are comprised of sandy clay, clayey sand, and clay. Prior to liner construction, on-site soil will be evaluated by a materials testing laboratory to determine the proper moisture content and compaction required to obtain the  $1 \times 10^{-7}$  cm/sec hydraulic conductivity. TCEQ rules do not require an applicant to demonstrate that a sufficient volume of clay is available for on-site liner construction. If there is an insufficient volume of on-site clay, the Applicant is responsible for acquiring sufficient quantities elsewhere. The clay liner will be covered with 12 inches of soil, and the first five feet of waste will be free of brush and bulky items. Liners may be constructed below the water table by using a dewatering method, such as the under drain system that is proposed for this facility. The under drain system will be composed of a geocomposite drainage layer installed under the clay liner, which will allow the removal of groundwater that infiltrates the excavation. This allows the liner to be constructed without being subject to uplift forces exerted by groundwater infiltration. Once a sufficient volume of waste has been placed on the liner based on calculations provided in the Soil and Liner Quality Control Plan, the removal of groundwater from the under drain system may be stopped.

The proposed liner meets TCEQ liner requirements, written to protect underlying aquifers. The floor liner will be constructed in Stratum III, which lies between the Chicot and Evangeline aquifers, and is reported to have an average vertical hydraulic

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<sup>56</sup> 30 Tex. Admin. Code § 330.200(e) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.331(d) (West 2008)).

<sup>57</sup> 30 Tex. Admin. Code §§ 330.236-330.238 (repealed 2006)(current version at 30 Tex. Admin. Code §§ 330.411-330.415 (West 2008)).

conductivity of  $9.8 \times 10^{-8}$  cm/sec. The Applicant has also designed a 36-foot-thick compacted clay plug that will be installed behind the side wall liner to prevent infiltration of groundwater from Stratum I (Chicot Aquifer) into the landfill unit and minimize the effects of contaminations from the unit on groundwater in Stratum II. The Applicant has estimated contaminant travel time through the compacted clay plug and liner to be 1,000 years.

The Applicant provided a fault study that indicated that there are no active faults that have had displacement during Holocene times (within the last 10,000 years). The nearest fault is reported to be the Bishop Fault, located 6.2 miles south-southwest of the proposed facility.

COMMENT 27: (Water and Soil Contamination)

Those people identified in Group 2, Group 3, Group 4, Group 5, Group 6, Group 7, Group 8, Group 9, Group 10, Group 11, and Dana Abernathy, Ruth Allen, Willie Mae Atkinson, Paul Bacque, Johnny Beall, Karen Beall, Denise Bell, Jason Bellini, Kimberly Bellini, Mrs. R. A. Benedict, Ralph E. Benedict II, Gary Biddle, Ken Burling, Charles E. Buzbee, Marie E. Buzbee, Patricia and Paul Clark, Vallye Chandler, James E. Clanton, Sherman J. Chenier-Cleveland, Floyd C. Collins, Linda Collins, Robert Collins, Tina Collins, Byard and Linda Crandall, Patricia Crofton, Joshua Davis, Elizabeth Dotson, Erin Dotson, Jim Dawson, Deborah Doran, Barbara, Leamon, and David Dowden, Belinda Faulkner, Ralph Drinkwater Floyd, Terri Gandy, Steven Garfield, Steven Gothard, Mark Grimes, Martha Guilbeaux, Kenny Hamby, Terry and Tracy Hamilton, Sandy and Steve Hamilton, Prescila Harris, Thomas Harrison, Laurie Headings, David Henderson, Daniel Heil, Jerri Heil, Tony Herrin and Pattie McGee, State Representative Ruben Hope, Jr., Judith Horne, Amber Hunt, Jimmy Hunt, Thornton Ireland, Ernest Kanak, Jr., Shelagh Kasinger, Crystal Kelsoe, Mary Lou Kirves (Texas Real Estate Group), Wayne Kocurek, Monte Harris Lane, Phillip Lindsey, Melody Logan, Christene Ludwig, Ronald Maffett, Barbara Mayeux, Travis Mayeux, Barbara Meche, Frankie Milley, Rosa Morelos, Albert and Shelia Nelson, Leda O'Neil, Marigrace O'Neil, Trudilee O'Neil, Sylvia Padilla, R. M. Palmer (International Paper, Realty Division), Carol Parten, Billy Pickering, Deborah Pickering, Theresa Portillo, Carolyn Sue and Lawrence A. Rains, Dr. Dellamira Rangel, Jennifer Real, Lisa Reasor, Danielle Reich, County Commissioner Ed Rinehart, Carla Robles, Terry E. Rollins, John Romero, Jr., Lorraine Romero, Pedro Rosales, Jr., Judge Alan Sadler, Jack Safford, David W. Sargent, Jr., Bob and Lynda Sasser, Allen and Joyce Selph, Ruben Selph, Travis Selph, Anita Severa, Vicente Sifuentes, James Singleton, Sherry Smalling, Cassandra Smith, John and Leah Smith, Nikki Somplasky, Linda Standley, Linda Stegenga, Nancy Steward, Thomas Steward, Joseph Tansu, David Tate (CAML), Rhonda Tate, Vicki Thompson, Jason Turner, Daniel Vargas, Billy Wagon, Janice Walkins, Shaun Wallace, Michael Walton, Cynthia Watford, James R. Watkins, Cody Weaver, Angela Welch, Clifford Welch, Dale Welch, Joann and Thomas Welch, Karen Welch, Sabrina Westerfeld, Jacqueline Woychesin, Ladgie Zotyka, Jr., and Paul Zylman commented that they were concerned that the facility might contaminate surface and groundwater in the surrounding area. Jim Dawson commented that the landfill should be located a sufficient distance from the

aquifers. Mary Carter (CAML) commented CAML was especially concerned that water wells serving several hundred families that live within one mile of the site were in danger because they used water wells screened at depths ranging from 30 to 200 feet, and the wells were perforated in either the Chicot or Evangeline aquifers that were primary sources of drinking water for the area. Those people identified in Group 1 and Mary Carter (CAML) commented that the Applicant failed to provide adequate information that documented all wells, springs, and waterbodies within 500 feet of the proposed site. Ms. Carter also commented that contaminated water leaking below the proposed landfill could contaminate wells in the adjacent county. Trudilee O'Neil commented that the Applicant did not provide adequate information regarding the number of wells in the vicinity of the proposed facility. Shelia Freeman, Luine Hancock (State Senator Robert Nickols), State Representative Ruben Hope, Jr., and State Senator Robert Nickols commented that they were concerned with the contamination of water wells and the area's drinking water supply. County Commissioner Ed Rinehart commented that issuing the permit would put water wells from Cut and Shoot, Security, New Caney, Porter, and other areas at risk. Judge Alan Sadler was concerned that there had been an increase in actual and proposed water wells in the area since the application was submitted. David Tate (CAML) commented that the Applicant used old water well information that indicated that the last well was drilled 6 years ago. Rhonda Tate commented that the contamination of water wells and surface water was imminent. State Representative Ruben Hope, Jr. commented that drainage problems and heavy flooding could contaminate shallow wells in the area, causing a major health hazard. Terry Dauzart was concerned that the landfill would be deeper than area wells, and asked if the Applicant would pay to deepen private wells in the area. Mary Carter (CAML), CAML, Judge Alan Sadler, John and Leah Smith, Linda Standley, and David Stegenga commented that the application had not adequately identified the uppermost aquifer, hydraulically connected aquifers, or the aquiclude beneath the groundwater system or the wells, bodies of water, and springs within one mile. Jim Dawson commented that nearby waterways fed into the Houston water supply. CAML, Ronald Maffett, Rhonda Tate, and Jacqueline Woychesin commented that Lawrence and West Fork Spring Branch Creeks flowed into Caney Creek and Lake Houston. Amarian Castillo, R. A. Benedict, James E. Clanton, Patricia Crofton, Elizabeth Dotson, Kenny Hamby, Sandy and Steve Hamilton, State Representative Ruben Hope, Jr., Albert A. Nelson, and Lisa Reasor commented that they were concerned about soil contamination. Travis Selph commented that he was concerned about the effect contaminated dust would have on vegetable gardens.

County Commissioner Ed Rinehart and Rhonda Tate commented that the proposed storm water detention ponds would not be adequate during periods of major flooding in the area. Shelia Freeman commented that the ponds were not adequate to deal with heavy rains or storms resulting from hurricanes. Trudilee O'Neil commented that the storm water retention ponds were not large enough to control water from the creeks that cross the facility. Melvin Sharpe commented that he was concerned that the ponds would leak and contaminate the surrounding water bodies. Dr. Dellanira Rangel was concerned that the runoff from the facility would pollute nearby creeks and lakes. Those people identified in Group 1 commented that the Applicant had not adequately demonstrated that surface water and run-on water containing pollutants would escape the

site and flow into Lawrence Creek or its tributaries, the West Fork of Spring Branch, surrounding jurisdictional wetlands, or surrounding private property. Those people identified in Group 1 also commented that H-GAC stated that the Applicant should demonstrate that the landfill would not exacerbate localized flooding. Those people identified in Group 1 and Mary Carter (CAML) commented that the Applicant had not provided adequate information about groundwater and aquifer conditions at the site. Ms. Carter commented that the Applicant had failed to provide adequate information demonstrating compliance with the TCEQ rules regarding the design, construction, and maintenance of a run-on control system capable of preventing flow on the active portion of the landfill during the discharge from a 25-year storm. Ms. Carter also commented that the current landfill design did not adequately address surface water runoff and localized sheet flooding from storm events. Linda Stegenga commented that the Applicant had not provided an adequate plan to prevent runoff from the landfill. Ms. Stegenga also commented that the Applicant had failed to demonstrate that the natural drainage pattern would not be altered. Thornton Ireland commented that contaminated runoff from the landfill would contaminate groundwater, rendering it unpotable for human consumption.

Rhonda Tate commented that the landfill would be placed near the recharge zone of the Evangeline Aquifer. Those people identified in Group 11 and Nora Renteria commented that there needed to be more studies of the effect on water contamination. Donald Stockton (Conroe I.S.D.) commented that he was concerned about water quality. Barbara McCleane commented that there could be lead contamination of groundwater. Frankie Milley commented that the area was a hotspot for meningitis bacteria, and that other bacteria and viruses were found in contaminated dump materials that could end up in sources that supply the community's drinking water. Those people identified in Group 4 and Melissa Barton, Patricia Crofton, Jim Dawson, Shelia Freeman, Laurie Headings, Judith Horne, Carla Robles, Ruben Selph, Travis Selph, Linda Standley, Ladgie Zotyka, Jr., and Paul Zylman commented that water contamination would result in the contamination of livestock and humans. Those identified in Group 11 and Jim Dawson, Carla Robles, and Linda Standley commented that gardens and crops would be exposed and damaged by contaminated flood water from the landfill. Kenny Hamby commented that water contamination would worsen the condition of the chronically ill. Those people identified in Group 10 and David Tate (CAML) commented that the Applicant would contaminate the water so that the Applicant could install a commercial water system that residents would be forced to buy. Those people identified in Group 4 and Group 11 and Melissa Barton, Mel Fife, David Tate (CAML), and Karen Welch were concerned that, if the water were contaminated, would the residents receive adequate and timely notice. Travis Selph asked who bore the cost of testing water facility runoff and wells. CAML commented that the Applicant had not provided a comprehensive groundwater monitoring plan for the site sufficient to protect the neighborhood down gradient of the site. Ernest Kanak, Jr. asked if the TCEQ was aware that the seasonal groundwater was in the area of 18 inches. Linda Collins, Tina Collins, Terry Dauzart, Jim Dawson, Norma Gibson, Phillip Lindsey, Travis Mayeux, Albert and Shelia Nelson, Caron Parten, Travis Selph, John and Leah Smith, Rhonda Tate, Billy Wagnon, Karen Welch, Sabrina Westerfeld, and Ladgie Zotyka, Jr. were concerned about possible contaminated runoff.



## RESPONSE 27:

The Applicant has indicated in the Geology Report that the recharge area for the Evangeline aquifer lies approximately 10 to 14 miles northwest of the proposed landfill site. Pursuant to TCEQ rules, the Applicant indicated aquifer recharge areas within 5 miles of the proposed landfill site.<sup>58</sup>

The proposed facility is designed to minimize the contamination of groundwater by the installation of a liner system and a groundwater monitoring system. The liner system design consists of a three foot compacted clay liner with a maximum hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second (cm/sec) overlain by a 12-inch-thick layer of protective cover soil. The Applicant has proposed a dual groundwater monitoring system that will monitor both the Chicot and Evangeline aquifers, identified in the application as Strata II and IV. Nearly all of the 165 wells identified within 1 mile of the proposed facility are screened in one of these aquifers.

If groundwater contamination is determined to have occurred, the Executive Director may order corrective action appropriate to protect human health and the environment.<sup>59</sup> As part of that corrective action, the owner or operator must discuss the results of the corrective action assessment in a public meeting with interested and affected parties.<sup>60</sup> Within 30 days of completing the corrective action assessment, the permittee must submit an assessment report to the Commission for review and approval that includes a schedule for the implementation of a corrective action program.<sup>61</sup>

The Applicant provided information on 165 known groundwater wells and identified creeks and wetlands within one mile of the proposed site location. The application specifies a below grade excavation of approximately 47 feet to an elevation of 167.4 feet above mean sea level. Wells identified within one mile of the proposed site range in depth from 23 to 485 feet below ground surface. Of the 165 wells identified, three wells are drilled to a depth of 23 or 30 feet below ground surface. The majority of wells within one mile are drilled to a depth of greater than 100 feet. TCEQ rules do not require an applicant to pay to deepen surrounding wells. After review of the information provided, the Executive Director has determined that the Applicant has provided the information required by TCEQ rules.

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<sup>58</sup> 30 Tex. Admin. Code § 330.56(d)(4)(I) (repealed 2006)(current version at 30 Tex. Admin. Code 330.63(e)(3)(I) (West 2008)).

<sup>59</sup> 30 Tex. Admin. Code § 330.239(b)(7) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.417(b)(7) (West 2008)).

<sup>60</sup> 30 Tex. Admin. Code § 330.236(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.411(d) (West 2008)).

<sup>61</sup> 30 Tex. Admin. Code § 330.237(a)&(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.413(a)&(d) (West 2008)).

Pursuant to TCEQ rules, the proposed landfill design will include levees with a three-foot freeboard to protect against a 100-year flood event.<sup>62</sup> The proposed facility will channel storm water that has not contacted waste through sedimentation/detention ponds to minimize suspended solids from the effluent before discharge. Leachate, condensate, or storm water that has contacted waste is considered to be contaminated water. In accordance with the Texas Pollutant Discharge Elimination System (TPDES) program, contaminated water may not be discharged from the facility without written authorization.<sup>63</sup> The owner or operator must handle, store, treat, and dispose of surface or groundwater that has contacted the working face of the landfill or leachate.<sup>64</sup> The SOP provides a Leachate and Contaminated Water Plan for the proposed facility. The Applicant has proposed to construct a berm downhill of the working face and areas that will be covered by weekly cover to collect contaminated water. Contaminated water will be maintained with lined cells and pumped directly to vacuum trucks for disposal as soon as practicable. Berms will provide storage for the 25-year/24-hour storm event. MSW rules do not directly establish design parameters for storm water ponds. Attachment 6 of the application indicates that storm water discharge rates and velocities from the landfill will be less than under current conditions. This is a result of the storm water collection structure, which directs a storm event through drainage swales, downchutes, drainage ditches, and retention ponds before discharging storm water. The Executive Director has determined that the proposed measures meet TCEQ requirements for the protection of ground and surface water, and should be sufficient to protect nearby water wells and surface waters downstream of the proposed facility.

COMMENT 28: (Contaminated Water Management)

Susan Lane commented that there was no way for the Applicant to separate rainwater from contact water. Ms. Lane also commented that the Applicant did not state where the contact water would be taken to be disposed of. Those people identified in Group 1, Mary Carter (CAML), and Linda Stegenga commented that the Applicant has failed to provide sufficient information to demonstrate compliance with TCEQ rules about how it will handle, store, treat, and dispose of surface water that had become contaminated at the landfill. Those people identified in Group 1, Mary Carter (CAML), and Linda Stegenga commented that the Applicant had failed to provide sufficient information to demonstrate compliance with TCEQ rules regarding design, construction, and maintenance of a runoff management system from the active portion of the landfill that would collect and control the water volume resulting from a 24-hour, 25-year storm. State Senator Robert Nickols and Mike Walton commented that the Applicant had failed to demonstrate how it would prevent contaminated runoff from entering Lawrence Creek and other waterways. Ruben Selph and Travis Selph questioned whether it would be harmful to consume fish and other game that had ingested contaminated water. Mary

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<sup>62</sup> 30 Tex. Admin. Code § 330.55(b)(7)(B) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.307(b)(1) (West 2008)).

<sup>63</sup> 30 Tex. Admin. Code § 330.139 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.207)(e) (West 2008)).

<sup>64</sup> 30 Tex. Admin. Code § 330.55(b)(6) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.305(g) (West 2008)).

Carter (CAML) commented that her clients were concerned about the impact that contaminated water would have on cattle grazing land, ponds used to water cattle, and possible human health impacts from the consumption of exposed cattle.

RESPONSE 28:

Part III, Attachment 15 of the application indicates that contaminated water will be segregated from storm water. Berms will be constructed downhill from the active face of the landfill which will contain a 25-year/24-hour storm event. Containment areas are based on the active working face size. Any water captured by these berms will be treated as contaminated, as it will have contacted waste or been combined with water that has been in contact with waste. Contaminated water and non-contact storm water from elsewhere within the permitted boundary are never combined. Berms will also be constructed above the active face so that storm water will be diverted and remain uncontaminated. It is only this uncontaminated storm water that will be discharged from the facility, pursuant to a separate Texas Pollutant Discharge Elimination System (TPDES) storm water permit. As indicated by Part III, Attachment 15, contaminated water will be collected by vacuum trucks then transported to and disposed of at a permitted wastewater treatment facility.

COMMENT 29: (Groundwater Monitoring)

Rhonda Tate commented that the proposed groundwater monitoring wells were inadequate because there were too few and spaced too far apart. Ms. Tate also commented that the time between a release to groundwater and the shutdown of the facility was too long. Susan Lane commented that the Applicant could not obtain an accurate account of groundwater deterioration if the monitoring wells were only located in the facility buffer zone. Karen Welch asked how often the groundwater was checked, and how soon after a release would the public be notified. State Representative Brandon Creighton asked how the TCEQ could ensure the public that the landfill would not contaminate groundwater. Representative Creighton also asked how long the TCEQ monitored groundwater for possible contamination. Those people identified in Group 1 and Mary Carter (CAML) commented that the Applicant had not provided an adequate groundwater monitoring plan, sufficient to protect the neighborhood down-gradient of the site.

RESPONSE 29:

In its application, the Applicant has indicated that the recharge area for the Evangeline aquifer lies approximately 10 to 14 miles northwest of the proposed landfill site. Pursuant to TCEQ rules, the Applicant indicated all areas of aquifer recharge within five miles of the proposed landfill site.<sup>65</sup> Based on the design of the facility and the underlying hydrology, a dual monitoring system is proposed that will monitor groundwater in both the Chicot and Evangeline Aquifers, noted as Strata II and IV in the

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<sup>65</sup> 30 Tex. Admin. Code § 330.56 (repealed 2006) (current version at 30 TAC § 330.63(e)(3)(I) (West 2008)).

Geology Report. The Stratum II groundwater monitoring system will consist of 29 monitoring wells equally spaced around the entire waste disposal area. The distance between monitoring wells for the Stratum II monitoring system is approximately 600 feet apart. The Stratum IV groundwater monitoring system will consist of 18 monitoring wells, two of which are classified as background wells while the remaining 16 are classified as down-gradient or point of compliance wells. The approximate distance between the point of compliance monitoring wells for the Stratum IV groundwater monitoring system is 300 feet. Monitoring well systems are commonly installed within the buffer zone due to the fact that TCEQ rules require that point of compliance monitoring wells be installed no greater than 500 feet from the waste management unit.<sup>66</sup>

Prior to waste placement, background groundwater quality will be determined, and the data utilized for a comparison between groundwater data collected after waste is in place in the unit. Detection monitoring at Type IV landfills is conducted annually.<sup>67</sup> If groundwater contamination is determined to have occurred, the Executive Director may order corrective action appropriate to protect human health and the environment.<sup>68</sup> As part of the corrective action, the owner or operator must discuss the results of the corrective action assessment in a public meeting with interested and affected parties.<sup>69</sup> Within 30 days of completing the assessment of the corrective action, the permittee must submit an assessment report to the Executive Director, which includes a schedule for the implementation and completion of the scheduled remedies.<sup>70</sup>

TCEQ rules require an applicant to provide a geology report that provides information regarding aquifer properties, formation properties, faulting, and unstable areas.<sup>71</sup> The Applicant's Geology Report identifies five strata underlying the site. Strata II and IV are identified as water bearing units, and Strata III and V are identified as aquicludes. Properties such as formation and aquifer thickness, permeability, moisture content, sieve analysis, soil Atterberg limits, and water levels are provided in the Geology Report. The Executive Director has determined that sufficient information has been obtained from subsurface investigations, and was provided in compliance with TCEQ rules.

COMMENT 30: (Total Maximum Daily Load)

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<sup>66</sup> 30 Tex. Admin. Code § 330.231(a)(2) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.403(a)(2) (West 2008))

<sup>67</sup> 30 Tex. Admin. Code § 330.239(b)(4) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.417(b)(4) (West 2008)).

<sup>68</sup> 30 Tex. Admin. Code § 330.239(b)(7) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.417(b)(7) (West 2008)).

<sup>69</sup> 30 Tex. Admin. Code § 330.236(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.411(d)).

<sup>70</sup> 30 Tex. Admin. Code § 330.237(a)&(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.413(a)&(d) (West 2008)).

<sup>71</sup> 30 Tex. Admin. Code § 330.56(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.63(e) (West 2008)).

Garry Biddle indicated that the landfill would violate the project limits established by the Total Maximum Daily Load (TMDL) for the Lake Houston Watershed.

**RESPONSE 30:**

The federal Clean Water Act (CWA) requires each state to conduct water quality assessments to determine whether its streams, lakes, and estuaries are sufficiently healthy to meet their designated uses.<sup>72</sup> Subsection 303(d) of the CWA requires each state to submit to the EPA a list of waters not meeting water quality standards or supporting designated uses.<sup>73</sup> The final approved list of impaired waters is known as the "303(d) List." Each state is required to develop TMDLs, which specify limits for the addition of pollutants responsible for the water quality impairment, for all water bodies on its 303(d) List.

The TCEQ has identified fourteen segments in seven different waterbodies in the Lake Houston Watershed area as impaired for elevated concentrations of bacteria.<sup>74</sup> While bacteria limits have been established, implementation measures to meet these limits are on-going. The proposed facility will channel storm water that has not contacted waste through sedimentation/detention ponds to minimize suspended solids from the effluent before discharge. Leachate, condensate, or storm water that has contacted waste is considered to be contaminated water. In accordance with the Texas Pollutant Discharge Elimination System (TPDES) program, contaminated water may not be discharged from the facility without written authorization.<sup>75</sup> The owner or operator must handle, store, treat, and dispose of surface or groundwater that has contacted leachate.<sup>76</sup> The SOP provides a Leachate and Contaminated Water Plan for the proposed facility. The Applicant has proposed to construct a berm downhill of the working face and areas that will be covered by weekly cover to collect contaminated water. Contaminated water will be maintained with lined cells and pumped directly to vacuum trucks for disposal as soon as practicable. With these control measures in place, the Executive Director does not anticipate that the proposed facility will contribute to the bacteria impairment found in the Lake-Houston Watershed.

**COMMENT 31: (Endangered Species and Wetlands)**

Melvin Sharpe commented that the new entrance road would cross wetlands, and therefore the Applicant would need a permit from the Army Corp of Engineers. Jim Dawson commented that he was concerned about the facility's impact on the 20 plus designated wetlands on-site. Those people identified in Group 1 and Mike Walton commented that the Applicant failed to adequately demonstrate that wetlands, and

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<sup>72</sup> 33 U.S.C. § 1315(b) (2008).

<sup>73</sup> 33 U.S.C. § 1313(d) (2008).

<sup>74</sup> See Lake Houston: A TMDL Project for Bacteria, "Project Overview," (September 2008), available at <http://www.tceq.state.tx.us/implementation/water/tmdl/82-lakehouston.html>.

<sup>75</sup> 30 Tex. Admin. Code § 330.139 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.207)(e) (West 2008)).

<sup>76</sup> 30 Tex. Admin. Code § 330.55(b)(6) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.305(g) (West 2008)).

associated wildlife, including migratory birds, would not be disturbed or harmed. Mary Carter (CAML) commented that poor facility design would cause contaminants to damage wetlands during flooding events. Ms. Carter also commented that the U.S. Army Corps of Engineers on-site inspection found approximately 57 acres of non-jurisdictional wetlands would be destroyed during the construction of the facility. Those people identified in Group 1 and Mary Carter (CAML) commented that the Applicant failed to demonstrate that the facility would not adversely impact the critical habitat of endangered or threatened species. Ms. Carter also commented that the Applicant failed to demonstrate that the landfill would not cause or contribute to the taking of endangered or threatened species. Those people identified in Group 2, Group 3, Group 7 and Melissa Barton, Phillip Branch, Jim Dawson, Deborah Doran, Mel Fife, Claudia Hubbard, Steven Matthews, David Rendon, Carla Robles, John and Leah Smith, Thomas Steward, David Tate (CAML), Rhonda Tate, Karen Welch, Sabrina Westerfeld, and Jacqueline Woychesin commented that the facility would be built on wetlands, that it immediately bordered or was too close to 21 officially protected or jurisdictional wetlands, and that the destruction would negatively affect wildlife, including migratory birds such as falcons, geese, ducks, and sandhill cranes; as well as having other negative environmental impacts. CAML, Claudia Hubbard, Patsy Matthews, Thomas Steward, and Jacqueline Woychesin commented that the facility site provided a habitat for the endangered red-cockaded woodpecker. David Tate (CAML) commented that the Applicant had not demonstrated that the facility would not destroy or adversely impact the critical habitat of endangered or threatened species. CAML commented that the Applicant chose not to mitigate 11 wetlands that the U.S. Army Corps of Engineers found to be non-jurisdictional wetlands. Mary Carter (CAML), Floralee and James Lovell, Leda O'Neil, and Linda Stegenga commented that they were concerned that the facility would negatively impact wildlife. Patricia and Paul Clark, Travis Selph, and James Shropshire were concerned that the facility would be a danger to wildlife and livestock. Jim Dawson suggested that the TCEQ do an amphibious tour before granting the permit.

#### RESPONSE 31:

In response to the first technical notice of deficiency, the Applicant reduced the area of the waste unit to avoid jurisdictional wetlands (i.e., wetlands that are under the jurisdiction of the U.S. Corps of Engineers under the federal Clean Water Act). Non-jurisdictional wetlands would be affected by the proposed design, but the TCEQ does not have authority to regulate and protect non-jurisdictional wetlands under its MSW program.

TCEQ rules required the Applicant to submit an Endangered Species Act compliance demonstration.<sup>77</sup> The Applicant contacted Texas Parks and Wildlife Department and the U.S. Department of the Interior, Fish and Wildlife Service, regarding the proposed facility. These agencies indicated that several federal and state-listed species could be affected by proposed activities and recommended further investigation. The Applicant then hired Crouch Environmental Services, Inc., to perform a Protected

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<sup>77</sup> 30 Tex. Admin. Code § 330.53(b)(13) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.61(n) (West 2008)).

Species Site Investigation. The conclusion of this investigation was that "no threatened or endangered plants or animals will be affected by the proposed construction" and "the subject property contains no critical habitat to support any endangered plant or animal species."<sup>78</sup> TCEQ staff has determined that the Applicant has satisfied this requirement.

The Applicant provided changes to the technically complete application on August 22, 2008. These changes included a new access road from the permit boundary to SH 105 on land owned by the Applicant, but outside the permit boundary. The Executive Director has limited authority over property features outside the permit boundary. However, out of consideration for all-weather access and the effect that the proposed access road would have on the floodplain, MSW staff requested information about how the access road would be designed. The Applicant's response to the Executive Director's Notice of Deficiency (NOD) indicated that the access road will be elevated by a bridge structure in the areas where it crosses the floodplain; although, the final design had not yet occurred. The response also indicated that the Applicant would coordinate with the Montgomery County Engineer's Office regarding the bridge design. MSW staff included a Special Provision in the draft permit that requires the Applicant to document its coordination with the Montgomery County Engineer's Office.

**COMMENT 32: (Air Pollution)**

Ruth Allen, Jason Bellini, Kimberly Bellini, Gary Biddle, Charles Buzbee, Marie Buzbee, Sherman Cheinier-Cleveland, Byrad Crandall, Linda Crandall, Lisa Ford, Terri Gandy, Daniel Heil, Sanjuana Hernandez, James Lovell, Ronald Maffett, Linda Middleton, Albert Nelson, Shelia Nelson, Leda O'Neil, Jennifer Real, John Romero, Jr., Lorraine Romero, David Rondon, David Sargent, Allen and Joyce Selph, Ruben Selph, Travis Selph, Ciara Smalling, Linda Standley, Linda Stegenga, Rhonda Tate, James Walkinshaw, Dale Welch, and Karen Welch commented that they were concerned about the proposed facility's impact on air quality. Linda Collins, Tina Collins, Jim Dawson, Norma Gibson, Duane Hamilton, David Henderson, Wayne Kocurek, Phillip Lindsey, Albert and Shelia Nelson, Trudilee O'Neil, R. M. Palmer (International Paper, Realty Division), Carol Parten, Francisco Ramirez, Karen Ramirez, Carla Robles, Pedro Rosales, Jr., Ruben Selph, Travis Selph, Linda Standley, Donald Stockton (Conroe I.S.D.), David Tate (CAML), Billy Wagnon, Michael Walton, and Karen Welch commented that they were concerned about how air quality would be affected by dust from trucks accessing the facility. Daniel Heil, Jerri Heil, and Thornton Ireland commented that they were concerned about dust generated by the landfill. Travis Selph and Linda and Ricky Standley commented that they were concerned about health risks from airborne contaminants. Sherry Glaze commented that she was concerned about a possible increase in respiratory problems due to the landfill. Rhonda Tate commented that she was concerned about toxic fumes emanating from the landfill. Those people identified in Group 5 and Thomas Beers, Denise Bell, Phillip Branch, Elvira and Yolanda Cervantez, Tina Collins, Linda Collins, Barbara, David, and Leamon Dowden, L. V. Dowden, Kenneth and Mary Everitt, Carla Robles, Bob and Lynda Sasser, Travis Selph, and Michael Walton commented that the increased air pollution due to the facility would

<sup>78</sup> See Part II, Appendix H, of the application.

affect the health of the elderly, children, and people with lung conditions. Kenneth and Mary Everitt were concerned about air pollution caused by burning at the facility. Travis Selph commented that he was concerned about how air pollution would affect plant life, and was concerned about the health effects from mold and mildew. John and Leah Smith commented that the Applicant failed to provide sufficient information to demonstrate compliance with TCEQ air rules. Those people identified in Group 11 and Nora Renteria commented that there needed to be more research conducted on how the landfill would affect air quality.

#### RESPONSE 32:

The State of Texas requires air emission sources to obtain a permit.<sup>79</sup> Emissions from MSW facilities, including waste processing and vehicle exhaust, are permitted by rule.<sup>80</sup> Although air emissions at facilities are not specifically limited, there are many rules intended to reduce air emissions to mitigate any effect on the surrounding community. These include: establishing buffer zones,<sup>81</sup> prohibiting the open burning of solid waste,<sup>82</sup> using all-weather roads,<sup>83</sup> dust suppression,<sup>84</sup> and weekly cover to control disease vectors, fires, odors, windblown litter or waste, and scavenging.<sup>85</sup> The Applicant's SOP indicates the use of crushed stone for all-weather access roads to minimize dust and mud. The proposed facility design also includes the minimum 50-foot buffer zone from the permitted boundary to the waste disposal area. TCEQ staff has determined that this application complies with applicable agency rules.

#### COMMENT 33: (Landfill Gas & Hydrogen Sulfide Generation)

Rhonda Tate commented that deadly landfill gas would migrate offsite. John and Leah Smith, George, Linda, and Rick Standley, and Linda Stegenga commented that they were concerned about the production of hydrogen sulfide (H<sub>2</sub>S) resulting from the disposal of wet drywall or sheet rock.

#### RESPONSE 33:

Owners or operators of all landfill MSW units are required to implement a methane monitoring program to ensure that the concentration of methane gas generated by the facility does not exceed a concentration of 1.25 percent by volume in facility

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<sup>79</sup> Tex. Health & Safety Code § 382.085 (West 2008).

<sup>80</sup> 30 Tex. Admin. Code § 106.534 (West 2008).

<sup>81</sup> 30 Tex. Admin. Code § 330.121(b) (repealed 2006)(current version at 330.543(b) (West 2008)).

<sup>82</sup> 30 Tex. Admin. Code § 330.5(d) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.15(d) (West 2008)).

<sup>83</sup> 30 Tex. Admin. Code § 330.127(a) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.153(a) (West 2008)).

<sup>84</sup> 30 Tex. Admin. Code § 330.127(b) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.153(b) (West 2008)).

<sup>85</sup> 30 Tex. Admin. Code § 330.133(a) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.165(a)&(b) (West 2008)).



structures and 5 percent by volume at monitoring points at the facility boundary.<sup>86</sup> The application indicates that there will be 17 landfill gas probes that will monitor quarterly for methane gas, which is the primary explosive gas in landfill gas. If the methane gas is detected above the action levels as specified in the rule, the facility must take actions specified in the Landfill Gas Monitoring Plan to control and remediate the landfill gas issue.<sup>87</sup> Neighboring residents, relevant local governmental agencies, the TCEQ, and other entities will be notified of the detection of landfill gas over the action levels.<sup>88</sup> TCEQ rules do not require monitoring for H<sub>2</sub>S.

COMMENT 34: (General Concerns)

Gabriela Gonzalez, Jackalyne Gonzalez, Tony Herrin and Pattie McGee, Monte Lane, Stella Luton, Danielle Reich, Nora Renteria, Paul Simmons, Arlinda Smith, Billy Smith, Michael Walton, Joann and Thomas Welch, Margie Wood, and Jacqueline Woychesin were concerned about short and long-term health effects on the residents. Gary Biddle, Ralph Drinkwater Floyd, Kenny Hamby, Shelia Hardrick, Thomas Harrison, Sanjuana Hernandez, Monte Harris Lane, Alan P. Schuler, Allen and Joyce Selph, Travis Selph, George Standley, Linda Stegenga, Janice Walkens, James E Walkinshw, Michael David Walton, and Angela Welch also had general health and safety concerns. Ralph Drinkwater Floyd, David Tate, and Rhonda S. Tate commented that people will develop diseases from the landfill. Linda Stegenga commented that cancer deaths are higher than expected in the 77327 and 77328 area codes, where the Waste Management Security Landfill is located. Patricia and Paul Clark, Mary Lou Kirves (Texas Real Estate Group), and Esther Williams were concerned about the general environmental quality of the area, and the environmental safety of the landfill. David Rondon questioned the TCEQ's role, and commented that the TCEQ should protect the people in his community. Jason Bellini, Charles E. Buzbee, Marie E. Buzbee, Vallye W. Chandler, and Michael David Walton commented that the landfill would reduce the quality of life in the surrounding area.

RESPONSE 34:

MSW rules are designed to protect human health and the environment. MSW rules require a liner designed to protect against releases, groundwater monitoring, landfill gas management, storm water run-on and runoff control, access control, and limitations on the types of waste that can be accepted. TCEQ staff has reviewed the application, and determined that it complies with all applicable MSW rules. Should the permit be issued, provided that the Applicant operates and maintains the facility according to TCEQ rules and the requirements contained in the draft permit, the proposed facility will not adversely affect human health or the environment. Potential impacts to the quality of life in the area surrounding the proposed facility are outside the scope of the normal evaluation of a municipal solid waste application.

COMMENT 35: (Waste Reduction, Reuse, and Recycling)

<sup>86</sup> 30 Tex. Admin. Code § 330.371 (West 2008).

<sup>87</sup> 30 Tex. Admin. Code § 330.371(c) (West 2008).

<sup>88</sup> 30 Tex. Admin. Code § 330.371(c)(1) (West 2008).

Ken Burling commented that alternatives to disposal, such as recycling and burning waste for energy, should be considered. David Henderson and Jacqueline Woychesin commented that they were concerned that the facility did not have a sustainable solid waste management plan (to reduce, reuse, and recycle) and that they thought it should.

**RESPONSE 35:**

The TCEQ encourages source reduction, reuse, and recycling in many ways, such as the Resource Exchange Network for Eliminating Waste (RENEW) program and the Computer Equipment Recycling Program. However, TCEQ rules do not require MSW permit applicants to recycle. Regional or local solid waste management plans must establish recycling rate goals appropriate to the area covered by the plan.<sup>89</sup>

**COMMENT 36:** (Notices of Deficiency)

Linda Standley was concerned that the facility had received 51 notices of deficiency.

**RESPONSE 36:**

TCEQ rules allow an applicant to address and correct deficiencies in an application identified by the Executive Director in a Notice of Deficiency (NOD) within a certain period of time.<sup>90</sup> The Executive Director may issue two NODs before returning the application.<sup>91</sup> In this case, staff issued two NODs to the Applicant. The first NOD for this application included 51 items, many of which were duplications due to the fact that MSW rules often cover an issue in more than one location. After the Applicant responded to the first NOD, a second NOD was issued. All deficiencies were resolved to the satisfaction of the Executive Director before the application was declared technically complete.

**COMMENT 37:** (Future Change of Status)

Denise Bell, Tony Herrin and Pattie McGee, Wayne Kocurek, Trudilee O'Neil, R. M. Palmer (International Paper, Realty Division), Linda Standley, Rhonda Tate and Karen Welch were concerned about the possibility of the landfill changing its status from a Type IV to a Type I.

**RESPONSE 37:**

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<sup>89</sup> Tex. Health & Safety Code § 363.064(a)(8) (West 2008).

<sup>90</sup> 30 Tex. Admin. Code § 281.19(c) (West 2008).

<sup>91</sup> Id.

Should the permit be issued, Section 361.123 of the Texas Health and Safety Code would prohibit the facility from converting from a Type IV landfill to a Type I landfill.<sup>92</sup>

COMMENT 38: (Mineral Rights)

Lennice Cargill (Keystone Natural Resources), Mel Fife, Leah Smith, Mary Carter (CAML) and David Tate (CAML) commented that the landfill would interfere with individual mineral rights that were not under the control of the Applicant; specifically, four drill sites located at the four corners of the property.

RESPONSE 38:

Mineral rights are dominant over the surface estate in Texas. Surface property owners are required to provide access so that mineral owners may exercise their rights. The TCEQ does not have jurisdiction from the legislature to regulate mineral rights. Questions about mineral rights should be directed to the Texas Railroad Commission. Waste disposal authorizations from the TCEQ do not grant any property rights or special privileges to the holder of those authorizations.

COMMENT 39: (Property Value & Area Development)

Those people identified in Group 3 and Group 6, and State Senator Robert Nickols, Dana Abernathy, Linda Kay Crandall, Jason Bellini, Kimberly Bellini, Charles E. Buzbee, Marie E. Buzbee, Joshua Davis, Belinda Faulkner, Ralph Drinkwater Floyd, Lisa and Venessa Ford, Sherry Glaze, Mark Grimes, Martha Guilbeaux, Prescila Harris, Thomas Harrison, Linda Middleton, J. Sandles, Nikki Somplasky, Donna Vandermoleni, Dan Wallace, Shaun Wallace, Shawn Watford, James R. Watkins, Cody Weaver, Jay M. Wright, Lunie Hancock (State Senator Robert Nickols), Dan Heil, Jerri Heil, Vallye Chandler, Patricia and Paul Clark, Linda Collins, Tina Collins, Superintendent Leon Cubillas (Splendora I.S.D.), Deborah Doran, Mel Fife, Norma Gibson, Dan Glassel (Blessing Residential, Inc.), Sandy and Steve Hamilton, David Henderson, Tony Herrin and Pattie McGee, Judith Horne, Shelagh Kasinger, Mary Lou Kirves (Texas Real Estate Group), Melody Logan, Stell Luton, Ronald Maffett, Frankie Milley, Albert and Shelia Nelson, R. M. Palmer (International Paper, Realty Division), Billy Pickering, Deborah Pickering, Nora Renteria, Bob and Lynda Sasser, Cassandra Smith, John and Leah Smith, Linda Stegenga, Nancy Steward, David Tate (CAML), David and Rhonda Tate, Billy Wagnon, Michael Walton, Marcia Warner, Karen Welch, Sabrina Westerfeld, Margie Wood, and Paul Zylman commented that the facility would cause lower property values and discourage additional growth in the area. Keith Berger asked if the Applicant would purchase his property at fair market value. County Commissioner Ed Rinehart, R. M. Palmer (International Paper, Realty Division), Jan Stallworth, Michael Walton, David Henderson, Bob and Lynda Sasser, and Linda Stegenga commented that the facility would negatively affect the tax base and result in less money funding the school district. Jay M. Wright commented that the landfill would adversely impact the development of

<sup>92</sup> Tex. Health & Safety Code § 361.123(c) (West 2008).

an international theme park planned for the area, ultimately resulting in a decline in property and sales taxes. Billy Pickering and Deborah Pickering commented that the landfill would cause an increase in insurance costs. Barbara, David, and Leamon Dowden, and L. V. Dowden commented that they would suffer economically from having to move from the area, and that this would cause them to file bankruptcy. Dan Glassel (Blessing Residential, Inc.) was concerned that the facility would lead to a decline in area development, and a corresponding loss of business and profit. Amber and Jimmy Hunt, and Crystal Kelsoe commented that the landfill would prevent growth of businesses in the area, and would ultimately create a slum. Vicki Thompson, Susana Magana, Tony Herrin and Pattie McGee, and Michael Walton commented that the landfill would have a detrimental effect on heritage, morale, and quality of life in the community.

#### RESPONSE 39:

The Texas Legislature has tasked the TCEQ with regulating the management of municipal solid waste in the state. TCEQ rules were promulgated to protect human health and safety, and the environment. Potential impacts on property values, the local tax base, community heritage, community morale, or quality of life in the community are outside the scope of the normal evaluation of a municipal solid waste application. With regard to future development, TCEQ rules state that “a primary concern is that the use of any land for an MSW site not adversely impact human health or the environment. The impact of the site upon a city, community, group of property owners, or individuals must be considered in terms of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.”<sup>93</sup> The Applicant is required to submit information regarding: zoning at the site and in the vicinity of the site; the character of the surrounding land uses within one mile of the proposed facility; growth trends of the nearest community with directions of major development; the proximity to residences and other uses, such as schools, churches, cemeteries, historic structures and sites, archeologically significant sites, and sites have exceptional aesthetic quality; the approximate number of residences and business establishments within one mile of the proposed facility including the distances and directions to the nearest residences and businesses; and a description and discussion of all known wells within 500 feet of the proposed facility to assist the Executive Director in determining potential adverse impact.<sup>94</sup> The Applicant has provided the required information and, based on that information, the Executive Director has determined that the draft permit is protective of human health and safety, and the environment, in the surrounding community.

#### COMMENT 40: (Closure)

Those people identified in Group 1 and Mary Carter (CAML) commented that the Applicant underestimated the cost of closure and post-closure care. Trudilee O’Neil and Karen Welch asked who would be responsible for environmental problems associated

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<sup>93</sup> 30 Tex. Admin. Code § 330.53(b)(8)(repealed 2006)(current version at 30 Tex. Admin. Code § 330.61(h)(West 2008)).

<sup>94</sup> Id.

with the landfill. Mike Walton asked who would be liable if the liner was not adequate, and the groundwater becomes contaminated. R. M. Palmer (International Paper, Realty Division) was concerned because the Applicant was organized as a limited partnership, and might not have enough assets available for site clean up. Mr. Palmer commented that the Applicant should be required to have a bond for the life of the facility to ensure that funds were available if a cleanup was required. Linda Stegenga and David Tate (CAML) commented that the Applicant had not addressed all the closure and post-closure costs for the permit.

**RESPONSE 40:**

The owner or operator is responsible for the operation and maintenance of the landfill. If a release of leachate is detected in the groundwater, the permittee will be required to take corrective action.<sup>95</sup> Failure to properly address this issue would be a violation of TCEQ rules, and could result in an enforcement action. MSW rules do not require an applicant to have a bond to address potential environmental cleanups. However, an applicant for a new facility is required to provide, sixty days before the facility receives waste, evidence of financial assurance that covers closure and post-closure costs.<sup>96</sup> The financial assurance requirement is based upon a cost estimate showing the cost of hiring a third party to close the largest area of all landfill units ever requiring final cover.<sup>97</sup> Cost estimates are updated annually for inflation.<sup>98</sup> Currently, the Applicant estimates \$5,848,534 for closure and \$583,879 for post-closure care. The Executive Director has determined that the Applicant has complied with TCEQ's financial assurance requirements.

**COMMENT 41: (Competency)**

David Stegenga commented that the Applicant was not competent to operate the facility because the Applicant had not operated or owned a facility within the past 10 years. David and Rhonda Tate asked for an investigation into the personal and financial competence of the Applicant.

**RESPONSE 41:**

TCEQ rules require applicants for MSW permits to submit the following information regarding competency: 1.) a list of all Texas solid waste sites that the owner or operator has operated in the last ten years; 2.) a list of all solid waste sites in all states, territories, or countries in which the owner or operator has a direct financial interest; 3.) assurance that a licensed solid waste facility supervisor will be employed before commencing facility operation; 4.) the names of the principals and supervisors of the

<sup>95</sup> 30 Tex. Admin. Code §§ 330.236-330.238 (repealed 2006)(current version at 30 Tex. Admin. Code §§ 330.411-330.415 (West 2008)).

<sup>96</sup> 30 Tex. Admin. Code § 330.52(b)(11) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.63(j) (West 2008)); 30 Tex. Admin. Code Chapter 37 (West 2008).

<sup>97</sup> 30 Tex. Admin. Code § 330.281 (repealed 2006)(current version at 30 Tex. Admin. Code § 330.503 (West 2008)).

<sup>98</sup> 30 Tex. Admin. Code § 37.131 (West 2008).

owner's or operator's organization, along with their previous affiliations with other organizations engaged in solid waste activities; and 5.) any landfilling, earthmoving, and other pertinent experience or licenses possessed by key personnel, and the number and size of each type of equipment to be dedicated to facility operation.<sup>99</sup> The application indicates that Montgomery Landfill Solutions has not owned or operated any MSW sites in Texas within the last ten years, and does not have a direct financial interest in any other MSW management sites. TCEQ rules do not require an applicant to have previously owned or operated an MSW facility.

COMMENT 42: (Business Organization & Antitrust Laws)

David Stegenga, David Tate (CAML), and David and Rhonda Tate commented that the Applicant was not in good standing with the Texas Secretary of State. Mel Fife and David Tate (CAML) commented that the Applicant was known to sell permits to Browning-Ferris Industries, Inc. (BFI), after issuance, and that BFI may have violated antitrust laws.

RESPONSE 42:

TCEQ rules require a permit applicant to verify its legal status.<sup>100</sup> Normally, this is done by submitting a one-page certificate of incorporation issued by the Texas Secretary of State.<sup>101</sup> As part of its application, the Applicant submitted its Certificate of Filing with the Secretary of state; which identified the Applicant as a limited partnership. The status of "good standing" is not applicable to limited partnerships.

The Executive Director has no information that indicates that, should the permit be issued, the Applicant intends to sell the permit. However, TCEQ rules do not prohibit such transactions provided that they are properly documented through a permit modification.<sup>102</sup> The permit holder is required to give public notice of such modifications.<sup>103</sup> Any approval of such a modification is subject to a motion to overturn the Executive Director's action.<sup>104</sup>

COMMENT 43: (Other Business & Research Concerns)

Steven Matthews commented that Waste Management had a reputation for developing landfills without thorough environmental, ecological, and residential research. Linda Standley commented that she thought that the Applicant should be investigated. She also asked if Metroplex was a turnkey contractor, and commented that Metroplex

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<sup>99</sup> 30 Tex. Admin. Code § 330.52(b)(9) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.59(f) (West 2008)).

<sup>100</sup> 30 Tex. Admin. Code § 281.5 (West 2008); 30 Tex. Admin. Code § 330.52(b)(8) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.59(e) (West 2008).

<sup>101</sup> 30 Tex. Admin. Code § 330.52(b)(8) (repealed 2006)(current version at 30 Tex. Admin. Code § 330.59(e) (West 2008).

<sup>102</sup> 30 Tex. Admin. Code § 305.70(k)(13) (West 2008).

<sup>103</sup> *Id.*

<sup>104</sup> 30 Tex. Admin. Code § 305.70(m) (West 2008).

conducted a very negligent and irresponsible study. Jacqueline Woychesin questioned the engineers' credibility. Those people identified in Group 11 commented that this landfill was a form of environmental terrorism and corporate intimidation.

**RESPONSE 43:**

With the exception of compliance history reviews, TCEQ rules do not require investigations of MSW permit applicants. Metroplex Industries, Inc. is an engineering and consulting firm, and would not be considered a turnkey contractor. The commenter did not reference any specific study conducted by Metroplex; however, each required study was reviewed by the Executive Director, and determined to be in compliance with applicable regulations.

**COMMENT 44:** (SOAH ALJ Decisions & Rubber Stamping)

Mike Ward commented that when the State Office of Administrative Hearings (SOAH) Administrative Law Judges (ALJs) made a decision, the TCEQ overruled them seventy percent of the time. Mr. Ward also commented that he believed that the TCEQ was rubber stamping permits. Jennifer Real commented that the TCEQ's use of forms and checklists evidenced its policy of rubber stamping permit applications.

**RESPONSE 44:**

At the conclusion of a contested case hearing, the SOAH ALJ will issue a Proposal for Decision (PFD) that includes findings of facts and conclusions of law.<sup>105</sup> The SOAH ALJ will present their PFD to the Commission, who will act on it.<sup>106</sup> The Commission may overturn an underlying finding of fact that serves as the basis for a decision in a contested case only if the Commission finds that the finding was not supported by the great weight of the evidence.<sup>107</sup> The Commission may overturn a conclusion of law in a contested case only on the grounds that the conclusion was clearly erroneous in light of precedent and applicable rules.<sup>108</sup> The TCEQ is unaware of any documentation indicating the SOAH recommendations are rejected by the Commission seventy percent of the time.

MSW permit applications are reviewed on a case-by-case basis. The Executive Director's staff subjects each application to an individual administrative and technical review. MSW permit applications are then further scrutinized through the public participation process. The TCEQ has developed a checklist to assist in the technical review of applications in order to facilitate a through review based on hundreds of rule requirements and provide consistency from one application review to the next. The checklist does not replace the technical review of the permit application by TCEQ staff.

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<sup>105</sup> Tex. Health & Safety Code § 361.0832(a) (West 2008).

<sup>106</sup> *Id.*

<sup>107</sup> Tex. Health & Safety Code § 361.0832(c) (West 2008).

<sup>108</sup> Tex. Health & Safety Code § 361.0832(d) (West 2008).

COMMENT 45: (Affected Party Status)

Jennifer Real asked why affected party status was so limited.

RESPONSE 45:

Pursuant to 30 TAC § 55.203, 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. An interest common to members of the general public does not qualify as a personal justiciable interest.<sup>109</sup> Any person may seek to participate in a contested case hearing by timely demonstrating their particular justicible interest.

**CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

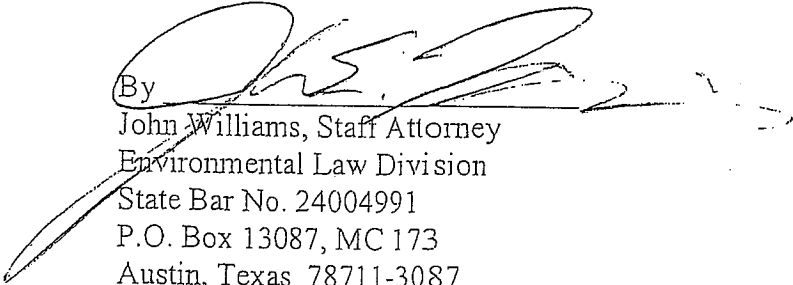
Due to public comments regarding all-weather access and the effect that the proposed access road would have on the floodplain, MSW staff included the following Special Provision in the draft permit:

“The applicant shall document coordination with the Montgomery County Engineer’s Office regarding bridge design and all weather access of the private entrance road from SH 105 to the facility as detailed in the application.”

Respectfully submitted,  
Texas Commission on Environmental  
Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division

By   
John Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-0455

<sup>109</sup> 30 Tex. Admin. Code § 55.203(a) (West 2008).

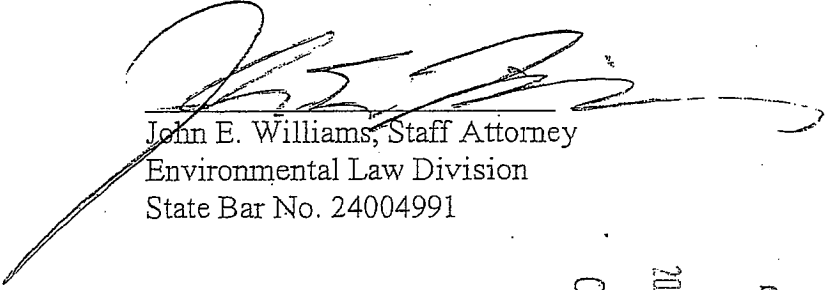


By Tim Reidy  
Timothy J. Reidy, Staff Attorney  
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REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY

CERTIFICATE OF SERVICE

I certify that on February 13, 2009 the "Executive Director's First Amended Response to Public Comment" for Permit No. 2324 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

  
John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 FEB 13 PM 3:52  
CHIEF CLERKS OFFICE

**Attachment C – Compliance  
History**

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602494320	Montgomery Landfill Solutions, L.P.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104006879	MONTGOMERY LANDFILL SOLUTIONS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT			2324
Location:	3761 N WALKER RD, CLEVELAND, TX, 77328			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	June 04, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 04, 2009 to March 17, 1999			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	T Reidy		Phone:	239 - 1000

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?    Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period?    No
3. If Yes, who is the current owner/operator?    N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ?    N/A
5. When did the change(s) in owner or operator occur?    N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government..

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

Early compliance.

N/A

Sites Outside of Texas

N/A

**Attachment D – GIS Map &  
Landowners List**

Requestors within 3 Miles of Montgomery Landfill Boundry:

ID	NAME
0	DANIEL P VARGAS
1	GABRIELA GONZALEZ
2	FRANCISCO MOCTEZUMA
3	GERALDO RAMIREZ
4	JUDY DEHART
5	KENNET H KWIATKOWSKI
6	MARIA FIGUEROA
7	RACHEL BRATCHER
8	AGUSTIN CHACON
9	GISSEL LAGUNAS
10	MARIA MIRAMONTEZ
11	ELVIRA RODRIGUEZ
12	MARIAD ROBLEDO
13	BONIFACIO GONZALEZ
14	JACKALYNE GONZALEZ
15	JESSICA GONZALEZ
16	JUANA GONZALEZ
17	JUDITH GONZALEZ
18	DIANA SALINAS
19	DEAN DUSKIN
20	CARLA WOODWARD
21	LUCILA VILLARREAL
22	NORA RENTERIA
23	GABRIELA GONZALEZ
24	DONALD LINDEMOOD
25	ELIZABETH and FERNANDO ROSALES
26	DANIEL and MARY ROSALES
27	GLADYS PEREZ
28	JOHNNIE LUKASHEAY
29	BARNEY PIERCE
30	MARCELINO and SANDRA MORENO
31	PEDRO ROSALES
32	MARIA SALAZAR
33	PEDRO and REFUGIA ROSALES
34	REFUGIA ROSALES
35	DANIEL and MARY ROSALES
36	TED CANTU
37	MELINDA VEGA
38	EVER HINOJOSA
39	KATHY HERNANDEZ
40	MARIA SANTOYO
41	RITO SANTOYO
42	SUSANA MAGANA
43	PATTY ZARATE
44	FRANSISCO RAMIREZ
45	KAREN WOOD
46	BETTY and FRED GREGG
47	BETTY GREGG
48	LOUIZA F BUSTAMANTE
49	RUFINA GARAY
50	JOSE LOPEZ
51	JOSE MEJIA
52	ELVIO ARRIETA
53	LANO GAYO

54 ALICIA BORUNDA  
55 VICTOR BORUNDA  
56 JEFFERY MCCAFFREY  
57 MELISSA MCCAFFREY  
58 RONALD MCCAFFREY  
59 CHARLE S REED  
60 KELLY REED  
61 FRANK FANNING  
62 SHARON LABIAN  
63 HECTOR and VICTORIA ROSAS  
64 ENEDINA ALVAREZ  
65 CHRISTIAN RAMIREZ  
66 FRANCISCO RAMIREZ  
67 ISABEL RAMIREZ  
68 KAREN RAMIREZ  
69 OSCAR RAMIREZ  
70 BUDDY JOHNSON  
71 AMARIAN CASTILLO  
72 AARON FLORES  
73 CLAUDIA FLORES  
74 JANET FLORES  
75 EDGAR FOLNEY  
76 ELVIRA CERVANTEZ  
77 FRANCISCO CERVANTEZ  
78 YOLANDA CERVANTEZ  
79 MARIETTA FLANAGAN  
80 BILLY ROGACKI  
81 ELIZABETH A HERBSTTRITT  
82 EUGENE H ROGACKI  
83 FRANCES H ROGACKI  
84 MARILEE DECKER  
85 CLARA RIGGINS  
86 LARRY RIGGINS  
87 ED KIRKLAND  
88 LINDA OTT  
89 DONNA ISBELL  
90 JUAN AGUILAR  
91 LETICIA AGUILAR  
92 MAXEY THARP  
93 DEBBIE BAILEY  
94 TIFFANY NEAL  
95 WILLIAM WINRIGHT CRIBBS  
96 SHERRY SMALLING  
97 RANDY WHEELER  
98 BONNIE FOSTER  
99 LEWIS FOSTER  
100 HELEN BLACKMAN  
101 JERRY BLACKMAN  
102 JAMES SINGLETON  
103 JOSEPH TANSEU  
104 STEPHANIE FORD  
105 GREGORIA RAMIREZ  
106 RAQUEL RAMIREZ  
107 TOMAS RAMIREZ  
108 MARK LICHMAN  
109 PRISILA TREVINO  
110 JASON SEBREE

111 LACEY WILLIAMS  
112 RACHEL CALLAWAY  
113 ROBERT O SEBREE  
114 STEPHEN MORRIS  
115 STEPHEN NORRIS  
116 RUSSEL SCHOONOVER  
117 RACHEL AMACLOE  
118 RACHEL GIBLIN  
119 PAT BROOKSHIRE  
120 RALPH DRINKWATER FLOYD  
121 BRYAN HAYES  
122 ERIC SALUS  
123 BILLY COLLIER  
124 HERSCHEL R WILSON  
125 ROSA MORELOS  
126 MILTON MUELLE R  
127 HARRY HARRIS  
128 DANA GARZA  
129 REESE GARZA  
130 MARIA VASQUEZ  
131 VANDA FORD  
132 JIMMY WEEKS  
133 BRENDA S JORGENSEN  
134 KIMBERLY WATKINS  
135 CAROL HENNESSY  
136 LETTY BIENIEK  
137 MIKE BIENIEK  
138 JOE LEGGETT  
139 ALBERTO ENRIQUEZ  
140 ANNELIESE ENRIQUEZ  
141 SHERMAN J CHENIER SR  
142 CRUZ DELEON  
143 JESUS JACOBO  
144 BARRY BRANNON  
145 DEBORAH BRANNO N  
146 SHERRY BRANNON  
147 SHERRY SMALLING  
148 DAVID and SHARI BRACEWELL  
149 CLIFFOR D WELCH  
150 PETE STONE  
151 DON MCCASLI N  
152 MAGGIE MCCASLI N  
153 MEGHAN MCCASLI N  
154 TRICIA MCCASLI N  
155 KENNET H THOMPSON  
156 JIMMIE C WELCH  
157 S W RUTHERFORD  
158 JAMES SINGLETON  
159 JAMES R WATKINS  
160 JANICE WATKINS  
161 JASON TURNER  
162 SANDY TURNER  
163 CIARA SMALLING  
164 JASON TURNER  
165 SANDRA TURNER  
166 JAMES WATKINS JR  
167 STANLEY JOHNSON



168 TERRY E ROLLINS  
169 CATHERINE and ROBERT HELTON  
170 ROBERT K SCHRUPP  
171 RUTH A SCHRUPP  
172 SCOTT YURA  
173 BEVERLY HAMMETT  
174 JERRY HAMMETT  
175 FERNANDO ROSALES  
176 CINDY and TERRY MOON  
177 PEARL MCDONALD  
178 WILLIAM E BOLES  
179 TOM BRENNAN  
180 STANLEY LAMBERY  
181 JOSHUA DAVIS  
182 SERCY YAWN  
183 LESLIE K NORMAN  
184 HEATHER DODSON  
185 KRYSTLE FUDGE  
186 TANYA HILL  
187 PENNY COOPER  
188 LEWIS AKIN  
189 LAURA JONES  
190 CHRIS PERRY  
191 SERCY YAWN  
192 TERRY BLACKMAN  
193 VIOLET BLACKMAN  
194 RANDELL LEMAIRE  
195 CONCERNED CITIZEN  
196 HENRY KNIGHT  
197 VICENTE V SIFUENTES  
198 HEATHER BURRELL  
199 RANDALL HYMAN  
200 STEPHANIE HYMAN  
201 DENNIS R CARTWRIGHT  
202 ROSEMARY CARTWRIGHT  
203 DORENE JONES  
204 JOHN OVERALL  
205 ROBERT L STEVENSON  
206 JESSIE M COOPER  
207 ROSS I JONES  
208 ROGER ADAMS  
209 DANNETTA WEST  
210 DONNIE and REBECCA SUTTON  
211 WAYNE KOCUREK  
212 TRUDILE E ONEIL  
213 SHELAG H KASINGER  
214 JENNALE E KOCUREK  
215 PHILLIP LINDSEY  
216 MARIGRACE ONEAL  
217 MARIGRACE ONEIL  
218 LINK RENEAU  
219 JACOB W KOCUREK  
220 JOSEPH KOCUREK  
221 JAMES SHROPSHIRE  
222 LARRY KENNEDY  
223 CONNIE STIPANIC  
224 CYNTHIA ENLOE

225 MARY PHILLIPS  
226 LAURIE KIRKLAND  
227 STEPHEN R DAUGHDRILL  
228 KATHLEEN HARRISON  
229 DEBORAH G and GEORGE D NOBLE  
230 DEBORAH NOBLE  
231 BARBARA HALES  
232 DONALD J HALES  
233 JAMES HALES  
234 MARTHA BARR  
235 STEPHEN BARFIELD  
236 KAREN BARFIELD  
237 KENNITH BISHOFF  
238 LEAANN BISHOFF  
239 DALLAS HIETT  
240 STEVE O WILKINSON  
241 HEATHER ADAMS  
242 BETTY BLACKMAN  
243 W L BLACKMAN  
244 LACEY WILLIAMS  
245 TIFFANEY HUGHBANKS  
246 LORI ADAMS  
247 HEATHER ADAMS  
248 WOODROW JACK TURNER  
249 LORRIE MINIX  
250 ED ARNOLD  
251 TARA ARNOLD  
252 SHARENE and WESCARR  
253 ELIZABETH BARBOSA  
254 PAUL ZYLMAN  
255 REBECCA ZYLMAN  
256 BILLY PICKERING  
257 DEBORRAH PICKERING  
258 ROXANNE PICKERING  
259 RICHARD ARNOLD  
260 BARBARA MAYEUX  
261 TRAVIS MAYEUX  
262 KITTY BULLOCK  
263 FLOYD COLLINS  
264 JULIE CULVER  
265 DEVAN KENDRICK  
266 SHARON KENDRICK  
267 VINCENT SCOTT KENDRICK  
268 HAILEY THOMAS  
269 JOYCE TAYLOR  
270 LOUISE KELLY  
271 JOHN L WELCH  
272 ALBERT NELSON  
273 ALBERT and SHELIA NELSON  
274 SHELIA NELSON  
275 DALE and KAREN WELCH  
276 DALE WELCH  
277 KAREN J WELCH  
278 MALIA KING  
279 ALAN SCHULER  
280 TINA COLLINS  
281 CHARLES W LYLE

282 PATRICIA REAM  
283 ROBERT REAM  
284 FLOYD C COLLINS  
285 FLOYD and LINDA COLLINS  
286 LINDA K COLLINS  
287 ROBERT MILLER  
288 MELINDA HALL  
289 ROBERT B MARTIN  
290 BOBBIE IRWIN  
291 RUTHA MISSY ALLEN  
292 CRISANDRA and KESHIA ALLEN  
293 JUDITH OTOOLE  
294 HERB E SOMPLASKY  
295 NIKKI SOMPLASKY  
296 RICHARD B SMITH  
297 PAUL SIMMONS  
298 STEPHANIE SIMMONS  
299 DAVID Y RENDON  
300 DAVID RENDON  
301 BOBBIE R GROENHOF  
302 R P GROENHOF  
303 JAN and RONALD STALLWORTH  
304 BETH BRECHEEN  
305 RICKY BRECHEEN  
306 CHARLIE JOHNSON  
307 SHAWNA EVERETT  
308 DEBORAH BELL  
309 DOROTHY BELL  
310 AMY ASHBY  
311 KEVIN ASHBY  
312 JUSTIN WOOD  
313 LEONARD MCDONALD  
314 SANDRA J MCDONALD  
315 LEANELA TORRES  
316 CHARLOTTE WILLIAMS  
317 JAMES S WILLIAMS  
318 JAMES WILLIAMS  
319 CHARLOTTE A and JAMES L WILLIAMS  
320 RODNEY ATKINSON  
321 RHONDA NASH  
322 ADELLE PARSHALL  
323 LEDA ONEIL  
324 JERRY and MARIA GONZALES  
325 BILLY THOMPSON  
326 SHERI THOMPSON  
327 EMILEE N ATKINSON  
328 RICHA R D ATKINSON  
329 BONNIE BRASWELL  
330 WILLIE MAE ADSKINSON  
331 ERNIE HALES  
332 NOVEL and VIRGINIA SNIDER  
333 VIRGINIA SNIDER  
334 RAYMOND ATKINSON  
335 VALERIE ATKINSON  
336 KERRI SAMPLE  
337 MICHAEL E SAMPLE  
338 CLYDE WAYNE and MS JUDY HALES

339 LEROY DUDLEY  
340 RHONDA JANOSEK  
341 DONALD G WILLIAMS  
342 SUE A WILLIAMS  
343 KAREN BRADBERRY  
344 KAREN and TIM BRADBERRY  
345 SETH JONES  
346 KEN and VIRGINIA BURLING  
347 MATTHEW FOSTER  
348 KEN BURLING  
349 TANJI FOSTER  
350 TARA FAY  
351 CLORINDA and MR JAMES E HOGAN  
352 CRYSTAL HOGAN CRAFT  
353 MICHAEL CRAFT  
354 JAMES HOGAN  
355 DOROTHY FITCH  
356 EDWARD FITCH  
357 LARRY WAYNE COLLINS  
358 ROBERT W COLLINS  
359 DAVID A and ROBBIN RICKARD  
360 M WATERS  
361 BILLY WAGNON  
362 ALISA MURPHY  
363 SANDY RELANDER  
364 JEREMY BEALL  
365 DAROLD and JANIS VANDEWERKER  
366 JANIS VANDEWERKER  
367 KELLI and LEE MOULDER  
368 JOHNNY BEALL  
369 KAREN BEALL  
370 LINK RENEAU  
371 ASHLEA VYORAL  
372 DOUG VYORAL  
373 JEFF ALLMAN  
374 ANN M CHEATHAM  
375 ANGELA WELCH  
376 MARY E LYNCH  
377 ANGELA KYLE  
378 DAVID LYNCH  
379 DEAN VANDEWERKER  
380 LUCIAN O RAMIREZ  
381 JAMES E FRANCIS  
382 GISA R GILES  
383 BOBBY L WALTERS  
384 DEBRA WALTERS  
385 PATRICIA CROFTON  
386 WALTER C BASTEDO  
387 PHILLIP BRANCH  
388 MELODY LOGAN  
389 SANDY and STEVE HAMILTON  
390 SANDY HAMILTON  
391 STEVE HAMILTON  
392 BRENDA F WRIGHT  
393 CONCERNED CITIZEN  
394 SHANE BAKER  
395 DEBRA TEEKAMP

396 ELIZABETH and JEREMY WILKERSON  
397 NORMAN L WILKERSON  
398 ARGELIO and ESMERALDA DELEON  
399 JESUS GARCIA  
400 TOMMY MILLER JR  
401 BARB and MR DICK VAN LIEW  
402 JESSIE VAN LIEW  
403 DICK VAN LIEW  
404 NORMA GREGORY  
405 OZZIE GREGORY  
406 ANTHONY and WENDY RICHARDSON  
407 WENDY RICHARDSON  
408 JOANN and THOMAS WELCH  
409 VALLYE W CHANDLER  
410 STEVEN GOTHARD  
411 THOMAS J BEERS  
412 KENNY HAMBY  
413 BOBBY G MORRIS  
414 ELLA MAY MORRIS  
415 MICHAEL MORRIS  
416 PATRICIA GIDDINGS  
417 JESSE L HOGAN  
418 NICK STEELE  
419 TIM MIZE  
420 EDGAR EUGENE JACKSON  
421 EUGENE and TINA JACKSON  
422 GORDON MYERS  
423 DENNISE E ONEIL  
424 RAY OVERTON  
425 JENNIFER and WESLEY T ADKINS  
426 DONALD and RODNEY BOWERS  
427 JANICE MENDOZA  
428 ELKE STEPHENS  
429 JOHN D STEPHENS  
430 DENNIS BROWN  
431 ROGELIO BAROENUS  
432 BYARD CRANDALL  
433 LINDA KAY CRANDALL  
434 CONNIE and FRANCISCO JIMENEZ  
435 JAMES M CRANDLE  
436 LAURIE HEADINGS  
437 RONALD HEADINGS  
438 LISA S BROWN  
439 STEPHEN R BROWN  
440 JOHN and VICKIE WERNER  
441 DAVID and MARCIA WARNER  
442 MARCIA WARNER  
443 DAVID J DESCHNER  
444 DEWANA HIGGINS  
445 JAMIE HIGGINS  
446 JOHN and VICKIE WARNER  
447 DONALD MAPSTON  
448 REBECCA M BOLES  
449 CHARLES BISHOP  
450 JACKIE BISHOP  
451 HILARIA ORTEGA  
452 RICHARD ORTEGA

453 SAMANTHA ORTEGA  
454 BARBARA MCLEANE  
455 ESMERALDA MCLEANE  
456 MATT MCLEANE  
457 NED MCLEANE  
458 CHRIS HAESCHE  
459 JUANITA GREGORY  
460 MARK A GREGORY  
461 CHARLES E RICHMOND  
462 DIANA RICHMOND  
463 STEVEN GEISMAN  
464 MARIA RONBERG  
465 ALAN FORTENBERRY  
466 LEANNA EVANS  
467 BOBBY NOVAKOSKY  
468 DOUG MAPSTON  
469 ROY W ABRAMSON  
470 CHARLIE MUSGROVE  
471 SYLVIA PADILLA  
472 DELORES ROOST  
473 TRACIE THOMAS  
474 ELVIS and PAT D AGRELLA  
475 BOBBY and KAYLA RENEE FINLEY  
476 TOMMY LITTLEFORD  
477 LEE LIBRADO and TINA LEAL  
478 MARK GRIMES  
479 MELANIE HERNANDEZ  
480 CAROLYN SUE and LAWRENCE A RAINS  
481 L A RAINS  
482 LARRY RAINS  
483 MARGARET C WAGNER  
484 MARGARET C WAGNER  
485 JAMES E WALKINSHAW JR  
486 FRANCES SHEPPARD  
487 RICKIE CHILDERS  
488 MITCHEL L BRUCE  
489 STEFANIE MILLER  
490 DUANE E HAMILTON  
491 TRACY HAMILTON  
492 PHILLIP JOHNSON  
493 GEORGE STANDLEY  
494 LINDA and RICKY STANDLEY  
495 LINDA STANDLEY  
496 RICKY STANDLEY  
497 KENITA FENDLEY  
498 RICHARD W FENDLEY  
499 GWYNETH and THOMAS POOLE  
500 THOMAS G POOLE  
501 CHERYL J BURKS  
502 GEORGE D BURKS  
503 JOSEPHINE BELL  
504 PATTY B and RICHARD E MULLINAX  
505 RICHARD E MULLINAX  
506 LUIS F AZUARA  
507 RAY HERRIN  
508 DAVID LYNN DAUZART  
509 TERRY DAUZART

510 JAREN and LOGAN N SMITH  
511 JOHN B SMITH  
512 JOHN and LEAH SMITH  
513 LEAH D SMITH  
514 LOGANN SMITH  
515 VICKI THOMPSON  
516 MARGIE WOOD  
517 DAVID NEAL  
518 DEBORA H NEAL  
519 MELANIE ANTILLER  
520 DEBBIE ORSACK  
521 MARVIN ORSACK  
522 DOUGLAS COCKERHAM  
523 GARY CHUNN  
524 PENNY CHUNN  
525 DANIEL HEIL  
526 JERRI HEIL  
527 ALLEN SELPH  
528 ALLEN and JOYCE SELPH  
529 JOYCE SELPH  
530 TRAVIS SELPH  
531 R T SELPH  
532 JENISE and PHILLIP CEMINO  
533 PHILLIP CEMINO  
534 STEPHANIE CEMINO  
535 VIVIAN SOMERS  
536 LEWIS AKIN  
537 DENNIS M OMALLEY  
538 DAVID L STEGENGA  
539 LINDA K STEGENGA  
540 JASON REAVES  
541 AARON TURNER  
542 W J TURNER  
543 HOWARD LAUNIUS  
544 TARA OLEPHANT  
545 GORDON and JERRI SEALY  
546 JERRI SEALY  
547 JASON BELLINI  
548 KIM BELLINI  
549 CHARLES E BUZBEE  
550 MARIE BUZBEE  
551 BARBARA MECHE  
552 LADGIE ZOTYKA JR  
553 VICKIE MORSE  
554 JERRI BROWN  
555 PAM BROWN  
556 RICK BROWN  
557 TIMOTHY HUSTON  
558 DANIELLE and PAUL D REICH  
559 VINSON SEALY  
560 ELIZABETH DOTSON  
561 ERIN DOTSON  
562 LOU DOTSON  
563 JAMES LAMENDOLA  
564 SUSAN M LAMENDOLA  
565 EVELYN A COLLINS  
566 JOSEPH HEMBY

567 JACKIE WOYCHESIN  
568 JACQUELINE WOYCHESIN  
569 RICKY WOYCHESIN  
570 JACKIE L SMITH  
571 CASSIE and JAMES SMITH  
572 CASSANDRA SMITH  
573 JASON TURNER  
574 CYNTHIA CHENAULT  
575 FRANK LEE  
576 SEFRONI A PITTMAN  
577 KIMBERLY WILKINSON  
578 RANDY WILKINSON  
579 DEBORAH K DORAN  
580 BRANDI LYONS  
581 CARL MCLEOD  
582 JOHN R HUTCHINSON  
583 JOHN M and SUE ELLEN CLEMENT  
584 NANCY STEWAR D  
585 THOMAS E STEWAR D  
586 KENNY HAMBY  
587 KIMMY ABRAMSON  
588 ANTHONY KEENER  
589 DARLA KEENER  
590 DONALD KEENER  
591 DUSTIN KEENER  
592 PATTY KELTCH  
593 MART and PATTY L KLETCH  
594 MARY EDWARDS  
595 CATHRIN M PLASTER  
596 HOMER R PLASTER  
597 AGNES and EDDIE E ROGERS  
598 ELAINE SWAIM  
599 ANN BLACKMER  
600 ROBERT S BLACKMER  
601 MARTHA GUILBEAUX  
602 RONNIE GUILBEAUX  
603 DAVID W SARGENT JR  
604 LEAMON V DOWDEN  
605 BARBARA and DAVID DOWDEN  
606 ROBERT VINEYARD  
607 JULIANNE YOUNG  
608 SUZANNE HANSEN  
609 TOMMY JENSEN  
610 MARY and ROBERT HUTSEAL  
611 GLORIA JENSEN  
612 TAMMY MOORE  
613 ELLEN NELSON  
614 SHARON P NELSON  
615 RANDALL GROSS  
616 RANDY and SHERYL GROSS  
617 APRIL MCHENRY  
618 MARY OMALLEY  
619 MATT OMALLEY  
620 BETTY S and WILLIAM GRANTHAM  
621 MARK MATHENY  
622 JENISE and PHILLIP CEMINO  
623 MELVIN SHARPE



624 BOBBY and FAITH ROGERS  
625 BELINDA and C ANDREW MARTIN  
626 JOE JOHNSTON  
627 DARREL L JOHNSON  
628 KENNETH R MEUTH  
629 CLAUDEAN COOK  
630 JAMES P BYRD  
631 MARK and MONICA DIRENNA  
632 DIANNIA CARTER  
633 WILLIAM CARTER  
634 BRIGHT LEMASTER  
635 LELIA BRIGHT and MICHAEL J LEMASTER  
636 MICHAEL J LEMASTER  
637 NICOLE BLAKE  
638 BARBARA J GANDY  
639 ROBERT J GANDY  
640 GORDON TROTT  
641 KIMBERLY TROTT  
642 MARGARET BLACKBURN  
643 HW TAYLOR  
644 JAMES A and LORI MATTOX  
645 LINDA and ROBERT PHILLIPS  
646 NONNIE MAFFET  
647 RON MAFFET  
648 JEFF L MCKINNEY  
649 COURTENEY BRENNAN  
650 LORENA JUNGST  
651 CASEY A NEELY  
652 JANICE FERRER  
653 PAT FERRER  
654 WILLIAM P FERRER  
655 PATRICK MCGINTY  
656 ANDY MENDIOLA  
657 BRENDA MENDIOLA  
658 ANDRES MENDIOLA  
659 GRACE MENDIOLA  
660 JENNIFE R MENDIOLA  
661 HARLAN SCHUETTPELZ  
662 BRAD SHRIEVE  
663 MICHELE SHRIEVE  
664 SUE GRIFFIN  
665 B K MORGAN  
666 LINDA MORGAN  
667 PATTIE LITTLE  
668 JOE WILLIAMS  
669 STAN TULLY  
670 PAT and PAUL CLARK  
671 PATRICIA and PAUL CLARK  
672 STEVEN MATTHEWS  
673 ERNEST and MARIE BROWN  
674 ANNETTE WHITE  
675 PAM VERCHER  
676 TOMMY J VERCHER  
677 ZACHARY VERCHER  
678 WAYNE BOCHIRN  
679 MAGNOLIA C and WAYNE BOEHM  
680 MAGNOLIA C BOEHM

681 AIDA MEDINILLA  
682 JAMES F HALL  
683 JAMES E CLANTON  
684 CHARLES BREWER  
685 AMY MCMULLEN  
686 CORALLYN BERGER  
687 KEITH BERGER  
688 BEVERLEY HINDS  
689 RUSSELL HINDS  
690 SUSAN PINE  
691 KAREN EUDY  
692 PHIL EUDY  
693 MARILYN KINNEY  
694 MATTIE L LAMBERT  
695 NEVA STEM  
696 ROBERT SMITH  
697 DAVID TATE  
698 RHONDA S TATE  
699 LISA MCCLOY  
700 JOHN D and RHONDA S TATE  
701 JAMES A HERRING  
702 RHONDA BROWN  
703 RON BROWN  
704 CLAUDIA HUBBARD  
705 CHRISPEN JOHNSON  
706 PAULINE MOORE  
707 ANDREW MULLOCK  
708 MELINDA MULLOCK  
709 BILLY LUKASHEAY JR  
710 MELISSA LUKASHEAY  
711 JAMES CLARK  
712 MARGARET HALL  
713 SAM HICKMON  
714 SUSAN HICKMON  
715 ALLEN JONES  
716 JOHN E JONES  
717 VIRGINIA JONES  
718 JOSE QUADALUPE MARQUEZ  
719 ADRIADNA NATALIA TEAPILA  
720 ROGER DELONG  
721 KAREN FAULK  
722 CHRISTINE JONES  
723 K R EVERITT  
724 KENNETH and MARY EVERITT  
725 JANET ANDERSON  
726 MORRIS MILLER  
727 SIBYL SPENCE  
728 CHRISPEN L JOHNSON  
729 MARGARET FULLER  
730 DONNA WEAVER  
731 RANDALL WEAVER  
732 CODY WEAVER  
733 JOHNNY R MCDANIEL  
734 PAT LUKASHEAY  
735 DWAYNE and PAMELA HOOD  
736 HAYDEN HOOD  
737 MELBA YORK

738 THOMAS YORK  
739 BOBBY J HAM  
740 JEREMY HAM  
741 REBECCA L HAM  
742 SHARON E HAM  
743 ROBERT HAM  
744 JESSICA JOHNNY and JOHNNY E WILKERSON  
745 DARRYL BARNHILL  
746 LINDA BARNHILL  
747 JOLENE JOHNSON  
748 BECKIE WARREN  
749 PAULA WARREN  
750 JAMES J FRANK  
751 SUE WAYFORD  
752 VIVIAN R HICKMAN  
753 DON and DORIS MYERS  
754 DONALD G MYERS  
755 LINDA S. BONE  
756 RANDY L BONE  
757 J R DELEON  
758 MARDE DELEON  
759 SONJA HENRY  
760 DANNY and DONNA WARNER  
761 MIKE MCCLINTOCK  
762 JUDI SELF  
763 JERRIE SMITH I