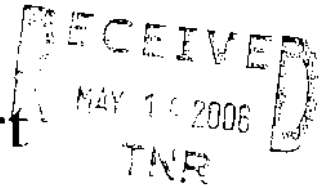


# Travis County Commissioners Court



SAMUEL T. BISCOE  
County Judge

RON DAVIS  
Commissioner, Pct. 1

KAREN SONLEITNER  
Commissioner, Pct. 2

GERALD DAUGHERTY  
Commissioner, Pct. 3



MARGARET J. GÓMEZ  
Commissioner, Pct. 4

Travis County Administration Building, 314 W. 11th, Commissioners Courtroom, 1st Floor, Austin, Tx 78701

May 17, 2006

Mr. Jeff Davis, P.G.  
Municipal Solid Waste Permits Section  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: MSW Permit Amendment No. 249D, Waste Management of Texas, Inc. Austin  
Community Recycling and Disposal Facility

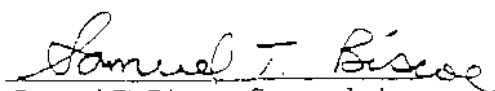
We oppose approval of MSW Permit Amendment No. 249D, which would allow Waste Management of Texas, Inc. (WMT) to expand its Austin Community Recycling and Disposal Facility. In terms of avoiding conflicts with incompatible land uses and nuisances to neighbors and communities, this site is a poor choice. There are almost a thousand existing residences within the immediate vicinity of site, as well as a school, a day care center, a historic site, a park, a neighborhood recreation center, and other existing receptors sensitive to the litter, vectors, dust, mud, odors, noises, light pollution, polluted stormwater runoff, and other impacts from a landfill. The long term and cumulative visual, auditory, olfactory, and other negative impacts of the expansion will not only impair private property owners' use and enjoyment of their property adjacent to the landfill, but the general public suffer these impacts as well. Moreover, the community at large will bear the brunt of the impacts on roads, creeks, drainage ways, and other infrastructure produced by expansion of the landfill. Because this would be an expansion of an existing site, opportunities to mitigate these impacts are minimal or nonexistent and make this an unsuitable site for authorization of additional waste disposal, especially in comparison with a greenfield site.

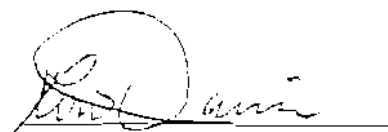
Expansion of the landfill would result in innumerable land use conflicts between it and existing and planned development in the vicinity. In addition to the existing receptors, the site is surrounded by vacant land that is rapidly being converted to urban and suburban land uses similar to those that already exist. The site is in the community's preferred growth corridor, known as the Desired Development Zone. According to the City of Austin Transportation Planning and Sustainability Department, the sector in which the landfill is located is the fastest growing of the 26 planning sectors of the Austin

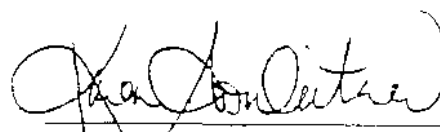
metropolitan area. The land use pattern that will prevail for the foreseeable future in the vicinity of the site is incompatible with ongoing waste disposal activities. Expansion of the landfill will perpetuate the ongoing land use conflicts that have prevailed in this area for years and that have generated citizen complaints that have consumed a tremendous amount of the resources of Travis County, TCEQ, and other public entities.

WMT has a history of serious violations that resulted in severe nuisance odors that affected neighbors and the community at large. In fact, TCEQ assessed WMT the largest fine ever assessed a municipal solid waste operator. The fine would have been even larger but for some regulatory maneuvering by WMT that resulted in reducing the fine by hundreds of thousands of dollars. Given WMT's history, there is a risk of future violations that would further impact adjacent land uses. Moreover, given WMT's conduct, WMT does not deserve and should not be afforded the luxury of being judged based on TCEQ's regulatory minimums. TCEQ can and should use its discretion to hold WMT to more than the regulatory minimums.

Travis County has no legal authority to zone incompatible land uses away from this landfill. In fact, TCEQ possesses more legal authority to avoid incompatible land uses in this case than the county does. Therefore, TCEQ should deny MSW Permit Amendment No. 249D. There is substantial evidence that continued disposal of waste at this site is incompatible with both existing and future land uses in the vicinity of the site. TCEQ has clear discretionary authority to deny this application on those grounds. Sections 361.069 and 361.089, TEX. HEALTH & SAFETY CODE ANN., Start County v. Start Industrial Services, Inc., 584 S.W.2d 352 (Tex. App. Austin 1979), Brownline-Ferris, Inc. v. Texas Department of Health, 625 S.W.2d 764 (Tex. App. Austin 1981).

  
Samuel T. Biscoc, County Judge

  
Ron Davis  
Commissioner, Precinct One

  
Karen Sonleitner  
Commissioner, Precinct Two

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Gerald Daagherty  
Commissioner, Precinct Three

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Margaret Gomez  
Commissioner, Precinct Four