

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 12, 2020

TO: Persons on the attached mailing list.

RE: Waste Management of Texas, Inc.
Registration No. 40306

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has acted on the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the ED's action became effective on May 7, 2020, the date the ED signed the permit or other action unless otherwise specified in the permit or other action. Enclosed is a copy of the ED's response to comments.

For certain matters, a **motion to overturn**, which is a request that the commission review the ED's action on an application, may be filed with the chief clerk. Whether a motion to overturn is procedurally available for a specific matter is determined by Title 30 of the Texas Administrative Code Chapter 50. According to 30 TAC Section 50.139, an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

If a motion to overturn is filed, the motion must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person, or by mail to the chief clerk's address on the attached mailing list. On the same day the motion is transmitted to the chief clerk, please provide copies to the applicant, the ED's attorney, and the Public Interest Counsel at the addresses listed on the attached mailing list. If a motion to overturn is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's action. The procedure and timelines for seeking judicial review of a commission or ED action are governed by Texas Health and Safety Code Section 361.321.

Individual members of the public may seek further information by calling the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/ms

Enclosure

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 12, 2020

Re: Austin Community Transfer Station - Travis County
Municipal Solid Waste (MSW) - Registration Application No. 40306
MSW Type V Processing Facility
Courtesy Response Letter

To All Concerned Parties:

Waste Management of Texas, Inc. (Applicant), applied for Municipal Solid Waste (MSW) Registration No. 40306 to authorize construction and operation of a new MSW Type V Transfer Station and Processing Facility in Travis County (Application). The proposed facility, to be known as Austin Community Transfer Station, will be located 500-ft north of intersection of Giles Road and US Hwy 290 Austin, TX 78754, in Travis County (Facility). The transfer station will be located entirely within the permit boundary of the Austin Community Recycling and Disposal Facility (an existing Type 1 MSW facility). The Applicant is requesting an authorization to store, process, and transfer municipal solid waste which includes household, yard, commercial, construction, and demolition waste as well as brush, rubbish, Class 2 non-hazardous industrial solid waste, Class 3 non-hazardous industrial solid waste, shredded or quartered tires, and certain special wastes. For exact location, refer to the Application. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the Application or notice: <https://arcg.is/1yrXqi>.

The Texas Commission on Environmental Quality (TCEQ) received timely public comments from the public. Texas Representatives Celia Israel and Sheryl Cole, Texas Senator Kirk Watson, City of Austin Assistant City Manager Ray Arellano, Travis County Commissioners unanimously opposed this transfer station and commented. Representative Celia Israel and the Travis County Commissioners requested that TCEQ hold a public meeting.

This response addresses public comments received, whether or not withdrawn, relevant to the transfer station application, or other matters the Executive Director has chosen to address at his discretion. Over 695 comments were received. A public meeting was held on February 6, 2020, and those comments from the public meeting or otherwise received are listed and found in the Chief Clerk's database. A complete list of commenters and the comments received may be found by running a search at <https://www14.tceq.texas.gov/epic/eCID/>. If you need more information about this registration application or the registration process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the website at www.tceq.texas.gov/.

Although no formal response to comment is required, the Executive Director offers the following informal, courtesy response to the public comments submitted to TCEQ:

I. Comments and Responses

Comment 1: General Opposition to the Registration Application and the Proposed Facility

The Executive Director received many comments generally opposed to the proposed facility.

Response 1:

The Executive Director acknowledges the comments.

Comment 2: Public Meeting Request

Several commenters, including state representatives and county commissioners, requested that a public meeting be held.

Response 2:

Due to significant public interest and legislative requests for this application, the TCEQ held a public meeting on February 6, 2020.

Comment 3: General Health, Public Safety, and Environmental Concerns

Several commenters expressed concern that the facility will cause members of the surrounding community to suffer adverse health and environmental effects due to contaminants or pollutants from the proposed facility, and/or that the proposed facility will generally negatively impact public safety or the environment.

Response 3:

The Texas Solid Waste Disposal Act (TSWDA) at Texas Health & Safety Code Chapter 361 and Rules at 30 Texas Administrative Code (TAC) Chapter 330 were promulgated to protect human health and the environment and are the basis of TCEQ's jurisdiction over municipal solid waste among other authorities. The role of the Executive Director in the technical review process of a registration application is to evaluate the contents of the Application and verify its compliance with all the regulations, and that information has been provided to ensure that the design, construction, and operation of the facility will be protective of human health and the environment.

The Executive Director has determined that the Application complies with applicable sections of the TSWDA and 30 TAC Chapter 330, which were promulgated to protect human health and the environment. If the Facility is operated in accordance with the registration provisions and all applicable rules and requirements, no adverse health impacts are expected.

Comment 4: Odor Control, Smoke or Burnings, and Open Trash and Air Pollution Concerns

Numerous commenters indicated a concern that the proposed facility will produce nuisance odors. Several commenters expressed concern over air pollution produced by open trash. One commenter mentioned that their house shakes like there are explosions nearby, that they smell burning and that they smell smoke from the existing landfill.

Response 4:

Nuisance, defined by 30 TAC section (§) 330.3(95) to include odors, is prohibited under 30 TAC § 330.15(a)(2). A new application for an MSW Type V facility is required to address odor control measures per 30 TAC § 330.63(b)(2)(C) and to prevent nuisance odors from leaving the boundary of the facility as required by 30 TAC § 330.245. The Application addresses odor control measures for the proposed facility in Part III, Section 2.3.3 and in Part IV, Site Operation Plan (SOP), Section 8.12. The Application indicates that odors will be controlled by limiting operations and processing

of solid waste to within the transfer station structure and limiting the time solid waste may be stored on the tipping floor. Also, the Application states that the proposed facility design and operation will provide adequate ventilation for odor control and that the operator will prevent nuisance odors from leaving the facility boundary. The Application states that any solid waste stored will be kept in odor-retaining containers, either inside the transfer station building or in tarped transfer trailers; these measures will also address air pollution concerns. The Application further states that a misting system using water or chemical deodorizers will be used to suppress and control nuisance odors.

The proposed facility will also not accept wastes that may generate odors including municipal water and wastewater treatment plant sludges, septic tank pumping, grease trap waste, grit trap waste, wastes from commercial or industrial wastewater treatment plants, and other liquid waste from municipal sources. The Applicant has indicated the facility will not accept slaughterhouse waste. The list of prohibited wastes can be found in Part I/II, Section 3.1 of the Application.

The provisions contained in the registration application meet TCEQ rules and requirements for odor control. All representations made in the registration application become enforceable if the registration is issued. If the owner or operator follows these procedures, odors from the transfer station should be adequately controlled.

If nuisance odors occur, the owner or operator must initiate appropriate measures to alleviate the condition. Individuals are encouraged to report any concerns about suspected noncompliance with terms of any registration or other environmental regulation by contacting the TCEQ Region 11 Office in Austin located at 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753 in person or by telephone at (512) 339-2929. There is also a 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186 and an online form at www.tceq.texas.gov/complaints. If the facility is found to be out of compliance with the terms and conditions of the registration, it may be subject to enforcement action. If an event, such as a fire, smoke, house shaking, or other such occurrence is happening, TCEQ encourages a member of the public to consult their local emergency response or call 9-1-1 systems to ensure timely and appropriate responses for protection of human health and safety from the appropriate authorities.

Comment 5: Operating Hours and Noise

Some commenters expressed concern about the noise and impact of operating hours of processing activities, waste trucks, and operating equipment.

Response 5:

MSW facilities are generally prohibited from causing a nuisance under 30 TAC § 330.15(a)(2). TCEQ rule 30 TAC § 330.239 requires screening or other measures that will minimize noise pollution and adverse visual impacts. Additionally, 30 TAC § 330.543(b) requires a minimum separating distance of 50 feet between solid waste processing activities and the boundary of the site. TCEQ rules do not set specific limits on noise generated by trucks or equipment in an MSW facility. Part I/II Section 6.4.2, Part III Section 2.3.5, and Part IV Section 8.9 of the Application indicates that waste transfer activities will occur within the transfer station building, the building will be setback from the closest public roadway (Giles Road) by 250 feet with a short buffer distance from the transfer station building and the registration boundary approximately 56 feet of the eastern boundary, and screening will be provided by a vegetated earthen berm and mature trees on top of the berm to minimize noise pollution and adverse visual impacts.

The Executive Director has determined that the Application complies with the requirements regarding control of noise pollution. If noise creates a nuisance, please see previous response for information on reporting suspected noncompliance with any TCEQ rules or registration conditions.

TCEQ rule 30 TAC § 330.229(a) requires a Type V MSW facility site operating plan to specify the waste acceptance hours and the operating hours for operating heavy equipment and for transporting materials on or off site. As stated in Part IV, Section 8.4, Operating Hours, page IV-22 of the Application, the facility will process and accept waste from 3 a.m. to 7 p.m. from Monday through Saturday; the facility will not accept waste on Sundays. Site operations would be from 5:00 a.m. to 9:00 p.m., Monday through Saturday and between 7:00 am to 7:00 pm Sunday. Site Operations include construction, earthmoving, monitoring, and other non-waste acceptance operations.

The Applicant proposes to maintain these hours of operation. The Executive Director is not aware of information to justify restricting the proposed operating hours.

Comment 6: Property Values, Taxes, Growth, and Local Economy

Some commenters raised a concern that the proposed facility will negatively affect property values, taxes, the local economy, and/or growth.

Response 6:

TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ does not have jurisdiction to consider economic or tax impacts, quality of life (beyond protection of human health and the environment), or the effect on property values of surrounding areas when determining whether to approve or deny an application.

Comment 7: Land Use Compatibility/Residential Growth

Several commenters raised a concern that the proposed facility is incompatible with surrounding land use. Travis County and the City of Austin have also specifically commented and taken a detailed position on the land use, site development code, and the extraterritorial jurisdiction of the proposed facility in the November 21, 2019 letter and restated by Jon White at the February 6, 2020 public meeting. The Executive Director acknowledges the comments received from Jon White and the County Commissioners on April 8, 2020, restating their position and requesting a contested case hearing. Travis County's position is that the changes to Chapter 312 of the Travis County Code and the City of Austin Zoning Restrictions will mean that Travis County and City of Austin will deny development permits to Waste Management regardless of the action TCEQ takes on this transfer station application under applicable TCEQ rules and statutes. The Executive Director is also aware that Travis County's position is shared by several public officials and members of the public.

Response 7:

30 TAC § 330.61(h) requires that the use of any land for an MSW facility must not adversely impact human health and the environment and that the owner or operator provide information regarding the likely impacts of the facility on cities, communities, groups of property owners, or

individuals by analyzing the land use, zoning in the vicinity, community growth patterns, water wells, and other factors associated with the public interest. Existing TCEQ rules do not set specific limits on these factors, just that the Applicant provide information that is accurate at the time of application for consideration by the commission.

In Part II, Section 6 of the Application, the Applicant provided the following in accordance with TCEQ requirements: an available public zoning map for the proposed facility within two miles of the facility for the county in which the facility is located; information about the character of the surrounding land uses within one mile of the proposed facility; information about growth trends within five miles of the facility with directions of major development; proximity to residences, business establishments, and other uses within one mile, such as schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality; and information regarding all known wells within 500 feet of the site.

TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute and rules. At this time, the registration process does not afford the Executive Director, the Applicant, or the commenters the opportunity for a contested case hearing as some commenters have requested. Accompanying this courtesy response letter is the process for follow up procedures for actions commenters may take regarding motions to overturn with the TCEQ commissioners. Land Use, zoning and county or city ordinance matters have traditionally been the purview of the TCEQ Commissioners and the civil courts. The Executive Director will prepare the administrative record should parties wish to pursue these proceedings. The Executive Director is only permitted to review the Application as submitted by the Applicant for compliance with all applicable rules.

Comment 8: Facility Alternatives, Zero Waste, Recycling, Composting

Some commented that they would like to see options such as zero waste, recycling, and composting explored.

Response 8:

TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute and rules. TCEQ actively encourages waste diversion and minimization efforts; however, the TCEQ does not have the authority to mandate alternative waste management activities to those proposed by an Applicant. The Executive Director is only permitted to review the Application as submitted by the Applicant for compliance with all applicable rules.

TCEQ encourages governments, business and individuals to recycle and reduce waste. For programs and links please consult this webpage: <https://www.tceq.texas.gov/p2/recycle>.

Comment 9: Environmental Justice

Some commented that the proposed application, if issued, would have a disparate burden on minority communities; the commenters provided some statistical and demographic information and mentioned environmental equity.

Response 9:

TCEQ is committed to protecting the health of the citizens of Texas and the environment. Registrations are evaluated by TCEQ and reviewed without reference to the socioeconomic or racial status of the surrounding community. Although there are no specific MSW siting rules addressing environmental equity issues such as the location of facilities in areas with minority and

low-income populations, disparate exposures of pollutants to minority and low-income populations, or the disparate economic, environmental, and health effect on minority and low-income populations, the TCEQ has made a strong policy commitment to address environmental equity.

The Office of the Chief Clerk works to help citizens and neighborhood groups participate in the regulatory process to ensure that agency programs that may affect human health or the environment operate without discrimination and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. You may contact the Office of the Chief Clerk at (512) 239-3300 for further information. More information on Environmental Equity may be found on the TCEQ website: www.tceq.texas.gov/agency/hearings/envequ.html.

Comment 10: Adequacy and Location of Access Roads, Traffic Impacts, Road Hazards, Dust, Traffic Safety, and Road Damage

Several commenters raised concerns that the local road infrastructure would not be able to handle the road traffic generated by the transfer station and would create traffic congestion, and traffic hazards. Some commenters expressed concern over dust created by the proposed facility and its associated operations.

One commenter stated that the new revisions to the transfer station application, submitted on February 3, 2020, have failed to include an access road as required by 30 TAC §§ 330.153 and 330.61(d). The commenter also stated that the Waste Management of Texas, Inc. has removed the transfer station boundary from being coterminous with the landfill permit boundary, as required by 30 TAC § 330.4(d)(4), so as to avoid being included in the City of Austin and avoid the City of Austin's zoning restrictions.

Response 10:

In accordance with 30 TAC § 330.61(i), an MSW registration application must include data on access roads for the proposed facility, including: availability and adequacy of roads that the owner or operator will use to access the site; volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the facility; and projections on the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility. The rules also require the Applicant to coordinate with the Texas Department of Transportation (TxDOT) regarding traffic and location restrictions and with the agency exercising maintenance responsibility for improvement of the public access roadway associated with the site entrance. The Application contains a traffic study supplying the required traffic data, in Part I/II, Appendix I/IIH and discussed in Part II, Section 7. The traffic study concluded that the proposed facility will result in lower facility-generated traffic volumes as compared to the Austin Community Recycling and Disposal Facility (RDF) and therefore would have less traffic impact on the surrounding roadways. As stated in the Application, the proposed facility will contribute a small and ever-decreasing percentage of the total traffic volumes on the area roadways during the life of transfer station. The percentages that indicate a decrease are shown on Part II, Section 7, Table I/II-7 Volume of Traffic on Area Roads.

When reviewing applications, the Executive Director defers to the TxDOT recommendations on transportation and traffic issues regarding the traffic impacts and adequacy of state-maintained roadways and to recommendations by local authorities on transportation and traffic issues regarding the traffic impacts and adequacy of locally maintained roadways. Coordination documents with TxDOT, required under 30 TAC § 330.61(i)(4), are provided in Part II, Appendix I/IIH of the Application. The Applicant corresponded twice with TxDOT regarding traffic and location restrictions for the proposed facility. TxDOT indicated that they did not have any legal load limits entering US 290 unless oversized or overweight permits are required, however, TxDOT

responded to the applicant's letter stating that the applicant go through Travis County and the City of Austin to address impact to TxDOT's system through their permitting process. TxDOT also indicated that Travis County and City of Austin will coordinate impacts of traffic to the adjacent intersections with Waste Management of Texas, Inc. In response to Waste Management's update to the traffic analysis, TxDOT requested that Waste Management keep TxDOT informed if there are any changes being made as Waste Management of Texas, Inc. proceeds.

Regarding traffic impacts, hazards, safety, and roadway maintenance, TCEQ rules require that all on-site and access roadways be maintained by the Applicant in a clean and safe condition. Per 30 TAC § 330.233, windblown material, litter and any other debris must be picked up at least daily. Several commenters were concerned about these matters for the existing landfill so this matter is addressed in the proposed transfer station. Access roadways must be regraded to minimize depressions, ruts, and potholes per 30 TAC § 330.237(c). In accordance with 30 TAC § 330.237(a), all-weather roads shall be provided within the facility to the unloading area designated for wet-weather operation. The tracking of mud and debris onto the public roadways from the facility shall be minimized. Per 30 TAC § 330.237(b), dust from on-site and other access roadways shall not become a nuisance to surrounding area. As stated in the Application, on-site access roads will be maintained by sweeping and/or periodic water spraying by a water truck as necessary. This has been addressed in the Application in Part IV, Sections 8.6, 8.7, and 8.8.

Section 18.2 of the Site Operating Plan in Part IV of the Application provides procedures for the control of dust from roads so that dust does not become a nuisance. This section states that landfill haul and access roads will be inspected and, if necessary, sprayed with water to further control dust.

Regarding the comment that the revised application failed to include an access road. Figure 1.1.1 in the Site Development Plan shows traffic flows beginning from the site entrance through the facility boundary into the transfer station and out of the facility. The rule cited by the commenter 30 TAC § 330.4(d)(4) does not exist in current rules. TCEQ reviews applications as received. Existing rules do not require that a boundary of a transfer station located within a landfill be coterminous with the boundary of the landfill.

The Executive Director has determined that the Application complies with all applicable requirements regarding availability and adequacy of roads and traffic impact and safety. All representations made in the Application become enforceable if the registration is granted.

Please see Response 4 for information on reporting suspected noncompliance with any TCEQ rules or registration conditions.

Comment 11: Birds, Buzzards, and other Disease and Vector Control

The TCEQ received comments about vectors and disease. Other commenters expressed general concerns about birds or buzzards. Some commenters expressed concern that the facility could provide food for, harborage, or attracts vectors and vermin.

Response 11:

TCEQ rules prohibit the creation of nuisance conditions, such as the uncontrolled presence of vectors. (30 TAC § 330.15(a)(2)). In particular, 30 TAC § 330.209(a) specifies that all solid waste must be stored in a manner that does not provide food or harborage for animals and vectors. Additionally, 30 TAC § 330.241(a) prohibits the accumulation of solid waste in quantities that cannot be processed quickly enough to prevent nuisance conditions. Part IV, Section 6.1 of the

Application states that all waste will be stored in a manner to prevent and control vectors. The Application additionally represents that no solid waste loading, storage, or disposal will occur within any easement buffer zone, or right-of-way that crosses the facility; waste will not be stored onsite for more than 48 hours; and waste stored overnight will be in tarped transfer trailers or will be covered with a tarp on the transfer station tipping floor.

The Executive Director has reviewed the Application and determined that the Application complies with the regulatory requirements for the prevention of vectors.

Please see Response 4 for information on reporting suspected noncompliance with any TCEQ rules or registration conditions.

Comment 12: Endangered and Threatened Species

There were a few comments regarding endangered species, such as monarch butterflies or other plants or animals. A commenter stated that the proposed facility would destroy the environment in the area and effect the monarch butterflies that are heading to Mexico.

Response 12:

30 TAC § 330.63(b)(5) requires the Applicant to describe how the facility will be designed to protect endangered species, while § 330.551 specifies that the facility and the operation of the facility not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

Part II, Section 12 and Appendix I/IIJ of the Application includes the results of an endangered and threatened species assessment. The assessment concluded that suitable habitat does not occur for any federally-listed species that could potentially occur in Travis County and that there is no critical habitat occurring for any federally-listed species within the project area. Additionally, no state-listed endangered or threatened species were observed in the survey area or have been documented in the vicinity.

The Executive Director has determined that the Application satisfies the threatened and endangered species requirements.

Comment 13: Drainage Controls, Stormwater Runoff and Discharge, Flooding of Neighborhoods, Surface Water Quality and Management of Contaminated Water, and Protection of Groundwater

Some commenters expressed specific concerns about drainage/surface water impacts of the proposed facility from construction and operation, generally on neighboring properties, and the adequacy of the design of channels and ponds for floodplains and other floodplain matters. Some commenters had concern over groundwater pollution.

Response 13:

Concerning drainage controls, stormwater runoff and discharge, and flooding of neighborhoods, TCEQ rules in 30 TAC § 330.63(c) require that the Applicant include in the Application a statement that the facility design complies with the requirements of 30 TAC § 330.303 (relating to Surface Water Drainage for Municipal Solid Waste Facilities) which requires that the facility be constructed,

maintained, and operated to manage run-on and runoff during the peak discharge of a 25-year rainfall event and prevent the off-site discharge of waste and feedstock material, including, but not limited to, in-process and/or processed materials and that surface water drainage in and around the facility be controlled to minimize surface water running onto, into, and off the treatment area.

The application includes calculations and conclusions stating that the transfer station is not anticipated to adversely affect or significantly alter the drainage patterns in the vicinity of the site. Uncontaminated stormwater run-on and run-off will be directed away from the transfer station facility area by site grading. The application indicates that the post-development peak discharges from the facility are less than the pre-development peak discharge rates at the site outfall for the 25-year, 24-hour precipitation event. Details of the surface water drainage report are provided in the Site Development Plan (Part III, Attachment 2).

As defined in 30 TAC § 330.3, contaminated water is water which has come into contact with waste, leachate, or gas condensate. Stormwater which comes into contact with solid waste will be considered contaminated water. In accordance with 30 TAC §§ 330.63(b)(4) and 330.207, the Application must include water pollution control procedures to prevent groundwater contamination and proper disposal of wastewaters generated on site. The owner or operator must provide for the treatment or proper disposal at an authorized facility of wastewaters resulting from the process or from cleaning and washing. The Application indicates in Section 5 of Part IV of the Application that the proposed facility will take all steps necessary to control and prevent the discharge of contaminated water from the facility. The Application states that the facility shall manage contaminated water in accordance with 30 TAC § 330.207 in which all liquids resulting from the operation of solid waste facilities shall be disposed of in a manner that will not cause surface water or groundwater pollution. Contaminated water will be directed to a minimum 2,000 gallon holding tank where it will be collected and contained until properly managed. The holding tank will be pumped as necessary into a properly registered tanker truck for transportation to a duly-permitted off-site treatment and disposal facility.

As stated in the Application, the discharge of stormwater from the tipping floor will not occur as all water coming in contact with waste will be managed as contaminated water. The facility will not discharge contaminated water without a separate, specific written authorization from TCEQ under the authority of the Texas Pollutant Discharge Elimination System (TPDES).

The Executive Director has determined that the Application complies with all applicable requirements regarding drainage controls, stormwater runoff and discharge controls, and groundwater pollution prevention.

Consistent with 30 TAC §§ 330.61(m)(1) and 330.547, an evaluation of the 100-year floodplain was prepared by the Applicant for the facility. TCEQ rules under 30 TAC § 330.63(c)(2)(A) specify Federal Emergency Management Agency (FEMA) maps as prima facie evidence of floodplain locations. Floodplains within and adjacent to the site are discussed in Section 10 and Appendix IIF, Part II of the Application. The current and proposed waste disposal operations will be conducted outside the 100-year floodplain. In accordance with 30 TAC § 330.547(c), the facility's processing and/or storage units are not located within the 100-year floodplain.

The Executive Director has preliminarily determined that the Application contains sufficient information regarding the Floodplain issue.

Please see Response 4 for information on reporting suspected noncompliance with any TCEQ rules or registration conditions.

Comment 14: Concerns about the Landfill

Several commenters expressed concerns over odor issues and previous complaints to the TCEQ Regional office concerning impacts from the operation of the Austin Community Recycling and Disposal Facility.

Response 14:

The Austin Community Recycling and Disposal Facility is a separate authorization from the proposed transfer station facility. TCEQ investigates all complaints received. If residents have any concerns over odor issues related to the landfill, please see Response 4 for information on reporting suspected noncompliance with any TCEQ rules.

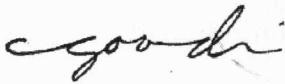
TCEQ evaluates compliance history before issuing an authorization. As part of the review the Executive Director examined the Applicant's compliance history pursuant to the criteria in 30 TAC Chapter 60. The compliance history includes multimedia compliance-related components about the site under review, including enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance. The current compliance history for the Austin Community Recycling and Disposal facility has a classification of "High." More details on compliance history can be found on the TCEQ website at <https://www.tceq.texas.gov/compliance/enforcement/compliance-history>.

II. Changes Made to the Registration in Response to Comments:

No changes were made to the draft registration in response to comments.

The TCEQ appreciates your interest in environmental issues. If you have any questions regarding this letter, please contact Ms. Kristen A. Hernandez, Project Manager, at (512) 239-5090. If responding by mail, please use mail code MC-124 after the recipient's name. For further information regarding our agency, please view our website at www.tceq.texas.gov.

Sincerely,



Chance Goodin, Manager
Municipal Solid Waste Permits Section
Waste Permits Division
Texas Commission on Environmental Quality