

REQUEST FOR ADDITIONAL INFORMATION FROM TCEQ

We have reviewed the Notice of Deficiency (NOD) response dated October 2, 2012. The following issues remain unresolved.

Easement

- 1) Comment 3 of the third NOD requested additional information regarding a general pipeline easement within the permit boundary. Information in the application clarifies that a right of way was granted to the Phillips Petroleum Company on April 16, 1982 by Henry and Mildred Dix. The right of way grant indicates that the rights revert to the grantor upon one year non-transmittal of product. This response provides a map entitled "Texas Pipelines" from the Railroad Commission of Texas and the cover letter indicates that this is provided to demonstrate that there are no active pipelines located beneath the proposed landfill location. The new figure does not provide the proposed permit boundary. If this figure is to be provided, it must include the permit boundary. The figure has a bar scale indicating that there are 4,000 feet per inch, an indication that the scale is 1" = 2,000, and another indication that the "printed scale" is 1" = 8,000 ft. All scales and bar scales must be consistent. The disclaimer on the figure appears to indicate that "Users are responsible for checking the accuracy, completeness, currency, and/or suitability of these data sets:" the figure is dated September 28, 2012 and so could not demonstrate one year of non-transmittal of product. Please provide confirmation that the right of way has been relinquished, such as by documentation that product has not been transmitted for at least one year, documentation that the line has been purged and capped for at least a year or documentation from the former grant holder that the right-of-way has been relinquished.

Waste Acceptance Plan (WAP)

- 2) Comment 7 of the third NOD requested clarification in the WAP of any and all processing that will occur at the facility. The response indicates that "there will be no processing facilities at the Post Oak Landfill." Appendix 2, Figure 1, Facility Layout Map indicates that the facility will include an approximately 2~5-acre "Mulch, Compost and [Construction and Demolition Waste] Processing Area." Please note that chipping, composting and mulching are processing activities in accordance with 30 TAC §330.3(117). Please clarify whether these processing activities, and any others, are proposed at this facility. If processing will occur, update the page 2 of the

Part I form to indicate that processing activities will also be covered by this application and clarify all proposed processing activities in the WAP. Please note that the response provides a maximum daily waste disposal rate, which is not required by rule but would be permit provision if provided in the application.

- 4) In further consideration of comment 8 of the third NOD, liquid waste is listed as a waste that may be accepted in accordance with 30 TAC §330.171(c), but liquid waste must be processed before disposal to stabilize all free liquids, and you have indicated that you will not be processing at the facility. Please explain.
- 5) In further consideration of comment 8 of the third NOD, the solid bullet on page 8, introducing what appears to be a prohibited waste list, includes contradictory language. A heading indicates that "The facility will not accept the waste discussed below." Below this the application indicates that the wastes listed will not be accepted without prior approval from the Executive Director (ED). The ED would not authorize the facility to accept prohibited wastes. Please remove any language suggesting that the ED would authorize disposal of prohibited wastes.
- 6) In further consideration of comment 8 of the third NOD, the second solid bullet on page 9 prohibits sewage sludge waste "in accordance with 330.1S(t)." First, you include sewage sludge on the authorized waste list on page 8 and on the prohibited waste list, also on page 8. Second, 30 TAC §330.1S(f) does not prohibit a landfill from disposing of sewage sludge waste; it clarifies that at MSW facilities that receive sewage sludge, failure to satisfy the criteria of Chapter 330 is a violation of the Federal Clean Water Act. Please delete this bullet from the WAP.
- 7) In further consideration of comment 8 of the third NOD, the third solid bullet on page 9 prohibits test boring drilling waste "in accordance with 330.15(g)." Please note that 30 TAC §330.15(g) does not prohibit a landfill from disposing of test boring drilling waste; it prohibits the drilling of test borings through previously deposited waste or cover material without prior written authorization from the ED. Please delete this bullet from the WAP.
- 8) Comment 10 of the third NOD again requested all applicable limiting parameters for waste to meet the requirements of 30 TAC §330.61(b)(1). Comment 10 reiterated numerous examples of limiting parameters for

waste that appear to be needed in the WAP. The examples in comment 10 were incorporated into the application, primarily in the apparent prohibited wastes lists on pages 8 through 10. Please provide a brief discussion in the WAP of limiting parameters for each waste that will be accepted at the facility. Where no limiting parameters exist for a given waste type (such as household waste) the text should explain this. Please provide limiting parameters for each waste type to be accepted at the proposed facility to meet the requirements of 30 TAC §330.61(b)(1).

Growth Trend Demonstration

- 9) Comment 13 of the third NOD requested clarification regarding a description of current growth trends within five miles of the permit boundary and directions of development, as required by 30 TAC §330.61(h)(3). The response indicates that eight-year-old maps are the most recent available; however, as noted in the comment, the map does not extend five miles in all directions from the facility. Approximately 20 of the area within five miles of the permit boundary is within Gonzales County. Only county-wide growth rates are provided for Gonzales County. Provide a description of growth trends within five miles of the permit boundary and directions of development to meet the requirements of this rule. Also, text on page 21 indicates that the new data is provided in "Appendix 2 of this section." This information immediately follows page 21 and does not appear to be in Appendix 2. Please correct this language to clearly indicate where this information is found. Also note that in accordance with 30 TAC §330.61(f)(2), a series of aerial photographs can be used to show growth trends. We are available to discuss this option if you wish.

Coordination

- 10) Comment 17 of the third NOD noted that coordination correspondence to and from TxDOT is provided in Appendix 5 and that we awaited their acceptance of your design; and an indication that you have addressed all concerns and questions from TxDOT to meet the requirements of 30 TAC §330.61(i)(4). The response indicates that the most recent correspondence with TxDOT is now provided in Appendix 5, including a complete list of remaining submittals and steps required for the final review and approval from TxDOT, to be provided as a driveway permit. We await documentation of the final review and approval from TxDOT.

- 11) Comment 18 of the third NOD noted that Appendix 5 includes Exhibit II-S.1, 'Vehicular' Traffic Volume. This exhibit indicates that the total number of trips related to the facility in its first year is 119 total trips while the original submittal of the application and in the response to the first NOD, this value was 340 total trips. Comment 18 requested an explanation of this change. This comment should also have noted that the calculation was not provided in the application, as requested in the second NOD. The response to comment 18 indicates that the traffic count in the first application submittal did not differentiate between types of waste hauling trucks, but the cover letter to the response to the first NOD appears to provide this breakdown as 45 "packer truck," 45 "transfer truck," and 10 "waste delivered loose;" This breakdown appears to have been followed in the current information, based on the traffic count information provided in Appendix 5. It appears that waste acceptance rates at the time of opening have been reduced. This would explain the reduction in traffic counts from 340 to 119; This information would be clearer with submittal of Part III of the application, but for now please explain if this is the case and if so, why. If not, please provide an explanation of why traffic counts decreased after the original submittal. And, regardless, please provide calculations in the application so that staff may confirm traffic counts used.

- 12) Comment 19 of the third NOD requested response correspondence from the United States Army Corps of Engineers (USACE) to demonstrate their approval of proposed wetlands mitigation activities to address the requirements of 30 TAC §330.61(in)(2). We await documentation of a final decision from the USACE. Please note that a demonstration in accordance with 30 TAC §330.553(b)(1) - (5) would allow the MSW Permits Section to proceed with further processing of the application while submittal of the USACE permit is awaited.

- 13) Comment 21 of the third NOD expressed concern about whether the biological assessment provided in Appendix 7 is adequate to address the facility as defined by the expanded permit boundary. Appendix 7-1 includes a statement that SWCA Environmental Consultants (SWCA) assessments cover "the area as illustrated (red boundary) on Figure 3, General Topographic Map." Please provide a cover letter from SWCA to show that the assessment in Appendix 7-3 and the supplemental comments provided in Appendix 7-1 were prepared by a qualified biologist in accordance with 30 TAC §330.61(n)(2).

- 14) Comment 22 of the third NOD noted incorrect figure designations in the biological assessment, provided in Appendix 7. The figure designations have been corrected but the date of the report has not changed. Please update the report date to reflect when changes were most recently made. Figures should include a revision block indicating when changes were made in accordance with 30 TAC §330.57(h)(4)(C).
- 15) Comment 23 of the third NOD requested that correspondence to and from the Federal Aviation Administration (FAA) regarding the Old Kingsbury Aerodrome Airport be provided in Appendix 10. The attachment now includes a copy of correspondence to the airport and to the FAA and the response letter indicates that no return correspondence has been received. We await the response from FAA.
- 16) Comment 46 of the third NOD requested clarification as to whether the historical assessment provided as Appendices 8 of the application adequately addresses the facility as defined by the new permit boundary. The information provided remains inadequate. Our rules require assessment within the permit boundary; "area proposed to be affected by project impacts" is not defined in our rules. Please provide text to explain how the provided assessment covers the area within the currently proposed permit boundary or revise the assessment and re-coordinate with the Texas Historical Commission.

Geology/Hydrogeology

- 17) Comment 24 of the third NOD requested additional information in Part II, Section 330.61(h), Impact to Surrounding Area, regarding a discussion of known wells. No discussions were provided to Section 330.61(h) regarding known wells. In accordance with §330.61(h)(5), please included an additional section, "Section 330.61(h)(5) - Known Wells Discussion," and provide a description and discussion of all known wells within 500 feet of the proposed facility, or provide the location where this information is provided.
- 18) Comment 25 of the third NOD indicated figures referenced in Part II, Section 330.61(j), General Geology and Soils Statement, did not match the figures provided in Appendix 2-1. The Response to Comment 25 indicates that figure numbers in Section 330.61(j) have been revised to match the appropriate figure in Appendix 2-1; however, Figure 1 referenced in the first

sentence of Section 330.61(j), along with many other figures referenced in this section, are incorrect. Please revise all figure references in this section to match the figures provided in Appendix 2-1.

- 19) Comment 34 of the third NOD requested revisions to Part II, Appendix 2-1, Figure 1, General Location Map, on which the permit boundary was indicated as the property boundary. The Response to Comment 34 indicates that this figure was modified accordingly; however, this figure was not revised. Please revise this figure by replacing the identifier label "Property Boundary" on the figure with "Permit Boundary."
- 20) Comment 36 of the third NOD requested revisions to Part II, Appendix 2-1, Figure 5, Additional Location Demonstration Map, on which the Section 330.61(c)(8) note indicated there are no airports within six miles of the facility. The Response indicates that Figures in Appendix 2-1 has been modified accordingly; however, this figure was not revised. Please revise this figure to accurately reflect airports within six miles of the permit boundary.
- 21) Comment 44 of the third NOD requested one additional compliance well, or more, to adequately monitor groundwater in the 425 Sand. In Part II, Appendix 1, Figure 25, 425 Sand - Proposed Compliance Monitoring Well Locations, it appears that an additional compliance well was added in the vicinity of monitoring well MW-5I; however, based on the apparent groundwater flow direction, the easternmost compliance well should be relocated approximately 200 feet east to ensure proper compliance coverage in that area. Please adjust the positions and spacing of the 425 Sand compliance wells, not to exceed 600 feet.
- 22) Comment 45 of the third NOD requested review of the well spacing of some of the compliance wells. The response cover letter indicates that compliance well spacing has been decreased to 500 feet. If there are references to a 500-foot well spacing in the application, please consider removing them, as the regulatory requirement for point of compliance well spacing is 600 feet in accordance with 30 TAC §330.403(a)(2). Also, please review compliance well spacing on Figure 26. Two of the points of compliance wells appear to be separated by more than 600 feet, which does not satisfy the compliance well spacing requirement. Please provide a figure that demonstrates compliance with 30 TAC §330.403(a)(2).