

Sunday, June 04, 2017

Subject: City Council Waste Management Policy Working Group

Mr. Raine,

I would like to submit the document I referenced in my testimony to the City Council Waste Management Policy Working Group for their consideration. In addition, I have also attached the last letter I wrote to the TCEQ regarding their last permit modification which is yet another look at how big problems are presented as incidental changes. Barr Mansion is faced with many more odor issues by this very unfortunate modification so easily granted. Thank you for all these efforts and careful consideration into this matter.

Melanie McAfee

Owner

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My name is Melanie McAfee, and I am the owner/operator of Barr Mansion, Inc. an events center located at an historic home in Northeast Travis County. We are located directly across the street from the Austin Community Landfill, and I am writing today to register my opposition to Waste Management's proposed permit modification at this site. My business and property will be adversely affected by an increase in the waste acceptance rate, and I urge you to deny this request.

First things first, despite the fact that my property and business are literally across the street from this facility I was not given written notice of this modification, and I do not appear on the notification list I have seen for this modification. I am lucky that friends and my elected officials swung into action on this and informed me or I would have been left without an opportunity to effectively weigh in on a change which threatens my property. It is my understanding that WMI has a statutory obligation to reach out to those of us close to their property. They have failed to meet this obligation, and so I urge you to reject this application at least until they have filed a new version in a manner that honors Texas law and your own regulations.

I am also told that we are unlikely to get a public meeting on this modification because your agency considers this change to be "minor." Increasing the amount of waste allowed through the gates of this facility by 67% does not seem minor if the roads carrying the waste are used by your customers, or if the litter from these loads flies onto your property, or if the stench threatens the very existence of your business. I respectfully request a public meeting in order to more thoroughly examine the potential consequences of this modification for area property owners and their families. This is not a minor matter as far as we are concerned.

Finally, I am deeply concerned that this modification undermines the work and word of our local elected officials and may signal illegal collusion between Waste Management and their competitors. Much of this increase in material appears to be coming to this facility as a result of the closure last year of the nearby Sunset Farms Landfill. Sunset Farms is owned and was operated by Republic Services, and its closure was negotiated by neighbors and Austin and Travis County elected officials. For this facility to simply shift its waste to a neighboring facility violates the spirit of that agreement. Furthermore, it appears that in the final years before Sunset Farms' closure there was a significant drop in waste accepted at the Austin Community Landfill. It is clear that these two allegedly competing facilities worked together to direct materials to

Sunset Farms to maximize the profitability of that landfill before closure and then the materials were shifted to Waste Management after closure.

I am aware that TCEQ does not investigate issues of business collusion or other fiduciary wrongdoing, but it should raise significant concerns about the integrity of the operator at hand and compel you to pause before authorizing them to take on hundreds of thousands of extra tons of trash annually. This is especially true in light of this facility's problematic history, including both the largest waste fine ever levied by your agency and the presence of 21,000+ barrels of industrial waste disposed there prior to contemporary regulations. This facility should be restricted, closed, and remediated, not enriched and functionally expanded if not in space then in volume.

Thank you for your consideration of these comments, and I look forward to an opportunity to air these grievances, lodge substantive legal complaints, and confront the applicant in person at a formal public meeting. I look forward also to your reply.

Sincerely Yours,

Melanie McAfee
Barr Mansion
10463 Sprinkle Road
Austin, Texas 78754

Landfill Fact Sheet, March 2009

1970 – Universal Disposal Incorporated granted authorization to operate a municipal solid waste site adjacent to the Travis County landfill. (No permits were required until 1977)

1971 – Industrial Waste Materials Management purchases site & receives approval from Texas State Water Quality Board to operate an industrial waste facility. An estimated four million gallons of hazardous waste is both poured into open acid pits & stored in 55-gallon drums buried at the site between May 1971 and June 1972.

1972 - The state of Texas orders the site closed in June 1972 because of groundwater contamination fears.

1972 – The site, filed by Rick Lowerre, an Austin environmental attorney to be a registered superfund site never got past the governor's office.

1973 – Longhorn Disposal Systems purchases the site. There is leakage found at the site. Industrial wastes are found to be seeping into a tributary of Walnut Creek.

1976 – Longhorn Disposal Systems is granted approval to take limited industrial waste. It is placed in the unlined municipal solid waste disposal area of the landfill.

1978 – Austin Community Disposal Co. purchases the site and it is transitioned for use as a municipal landfill only.

1980 - Xylene, benzene, naphthalene, decahydronaphthalene and other hydrocarbons show up in monitoring wells at the site. A field inspection shows industrial waste seeping into a tributary of Walnut Creek.

1980-1981 – WMI (Waste Management Incorporated) buys the Austin Community Disposal Company.

1981 - Both BFI and WMI file for permits. BFI's to begin operations and WMI's to expand their existing operations.

1981 - Melanie and Mark McAfee purchase Barr tract with the belief that the county dump was closing

1987 – Texas Department of Health expresses concern about the total organic compound concentrations in monitoring wells, which are located next to the industrial waste area. TDH recommends analyses by gas chromatograph/mass spectrophotometer but there is no indication in the public record that the tests were ever done.

Mid 1980's – The Resource Conservation and Recovery Act (RCRA) enacted by Congress defines hazardous waste.

1991 – Waste Management receives approval for expansion permit.

1991 – A Landfill Issue Paper prepared by the city of Austin addresses the need for reevaluating the waste stream stating: “the city needs to begin now to create a new plan for disposal of household wastes.”

1992 – Texas Water Commission letter states “total organic compound concentrations appear to have continued the nearly exponential increases of the previous two events. The latest average TOC value of 85 mg/L is an 8.5 increase over the previous value and may represent a significant ground water problem.” Further sampling was required, but there is no indication in the public record that this was ever performed.

1993 – Texas Water Commission in a letter dated March 18, 1993 stated that there are indications of ground water contamination showing up in a well on the BFI site very close to the Waste Management Industrial Waste Unit. The letter suggests prompt action is needed. There are no indications in the public record that any actions were taken.

1993 – On October 9th, Subtitle D regulations for landfills are enacted. (Subtitle D is the practice of lining landfills with clay pits or sheeting materials to “protect” refuse buried within). The dumping of industrial hazardous materials that occurred 1971 would be illegal today.

Right before Subtitle D was enacted the landfills rushed out and opened up as many cells as they could to increase their grandfathering and negating the law.

1994-1997 – Continued signs of ground water contamination are ignored by the state agency assigned to monitor them

1996 – TNRCC approves test well design that removes the monitoring wells from around the industrial waste unit that have consistently shown the most problems

1998 – Contaminated leachate seeps discovered at the industrial waste unit flowing into a tributary of Walnut Creek

2004 – Ground water monitoring wells at Applied Materials test positive for chemicals found in dry cleaning operations.

1998 – The Austin City Council hires independent consultant Carter and Burgess to evaluate the landfill. Carter and Burgess determine that the site: “poses a *substantial* environmental risk and potential future liability to the owners and users of the site.”

1998 - An article written by The Austin American Statesman sites that WMI management intends to operate their site for another 50 yrs. Under their present permit, WMI has enough capacity to operate to 2015 or beyond and their permit to expand would allow them to continue at present rates to 2025 or more.

2008 – BFI requests to expand their site to 38 million cubic yards, despite years of community opposition. They are currently at 27 million cubic yards. This additional expansion of 11 million cubic yards would allow additional expansion on unlined cells, as would the proposed WMI expansion.

2007 – Austin City council votes unanimously to oppose both expansions.

Oct 31, 2008 – Without City Council approval, city staff sign a closed-door agreement Without City Council approval. This effectively removes City of Austin as a protestant in the BFI permittal process. The City contends that a closure date of November 2015 is secure although as of yet there is no financial penalty if the landfill should fail to do so.

January 2009 - A contested case hearing is held with BFI. During the public hearing new evidence shows that BFI nearly tripled the drainage to the neighboring property. City Planner Guernsey testifies that the BFI landfill is an improper land use.

March 30 to mid-April 2009 – A contested case hearing will be held with WMI.

If these two proposed landfill expansions are approved, there will be a 1000 acre mountain of garbage less than eight miles away from the state capitol and situated within a densely populated desired development zone.

- Walnut Creek is connected to a creek bed that runs thru and adjacent to the WMI site. Walnut Creek empties into the Colorado River. The Colorado Rivers is a primary source for Austin's municipal drinking water supply.
- Concerned parents have taken their children out of nearby Bluebonnet Elementary because of health concerns. Recess has been repeatedly cancelled, which parents contend has been because of the foul stench.
- Landfills make generate revenue from disposal of waste. Better alternatives – such as waste reduction, zero waste, composting and recycling, cut into the company's profits.
- Since 2001, BFI and WMI have received more than 1, 000 citizen pollution complaints. Nearby residents live with chronic foul odors, birds, windblown trash, and noise.
- Numerous cells (plots) in these landfills do not meet the full subtitle D regulations. Adding more weight on top of cells pushes contaminated groundwater further and faster through preferential migration pathways. Our water supply is threatened.
- At WMI there is estimated to be twice as much volume of chemicals than what was dumped at Love Canal. (Love Canal estimates as much as 19,000 tons whereas this site estimates as much as 80,000 gallons.
- This Waste Management site has more fines for environmental violations than any other municipal landfill in the history of Texas.
- The City decided that although WMI was the lowest bid for the disposal of city residential trash, the risks were too high and has not contracted with WMI for this large residential contract since.
- If BFI receives their permit expansion, it will be 75' higher, elevation 795' above msl. This will be a 38.37% increase.
- A partial listing of pesticides
PCBs, dioxins, furans, metals, volatile organic compounds and semi volatile organic compounds: xylene, cyanide, chromium, copper, thallium, antimony, cadmium, beryllium, 4,4 DDT, 4,4DDD, 4,4 DDE, aldrin, alpha BHC, aroclor 1016, beta BHC, chlorodane, diallate, endrin, heptaclor expoxide, isodrin, methoxychlor, 1,2,4,5-tetrachlorobenzene, 1,2,4- trichlorobenzene, 1,4-dichlorobenzene, 2,4-dichlorophenol, 2,4-dimethylphenol, 2,4-dinitrotoluene, 2,6-dinitrotoluene, 4,6-dinitro-2metylphenol, 2,4,5-trichlorophenol, 4-nitrophenol, 2-methylnaphthalene, 2-methylphenol, 3 and 4 methylphenol, 5-nitro-o-toluidine, acenaphthene, acetophone, aniline, benzo (k) fluoranthrene, Bis (2-Ethyhexyl) phthalate, di-n-butyl phthalate Butyl benzyl phthalate, dibenzofuran, dimethyl phthalate, diphenylamine, fluoranthene, flluorene, hexachlorobenzene, isophone, naphthalene, pentachlorobenzene, pentachlorophenol, phenanthrene, phenol, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,2,3-trichloropropane, 1,1-dichloroethane, 1,1-dichloroethene, 1,2-dichlorobenzene, 1,2-dichloroethane, 1,2-dichlloropropane, 1,4-dichlorobenzene, 2 butanone (MEK), 2-hexanone, 4 methyl-2-pentanone, acetone, acetonitrile, benzene, chlorobenzene, chloroethane, chloroform, chloromethane, dichlorofluoromethane,

ethylbenzene, methylene chloride, styrene, tetrachloroethene, toluene, trans-1,4-dichloro-2-butene, trichloroethene, trichlorofluoromethane, total TCDF, total HxCDF, total PeCDF.

**The above information has been researched to the best of our knowledge & sourced from: TCEQ files, legal documentation, interpersonal company memos, newspaper clippings, and the TCE. **