

December 10, 2008 Council

TCEQ won't help counties and cities with landfill permit jeopardy

If there was ever any doubt about whether Williamson County could count on the Texas Commission on Environmental Quality (TCEQ) to protect its landfill permit from being hijacked by its contractor, all doubt was removed at a hearing conducted by TCEQ commissioners on December 10, 2008.

Petitioners (including the Hutto Citizens Group) had asked TCEQ to open a new rulemaking regarding landfills and appropriately define “permittee” and “applicant” as pertaining to Municipal Solid Waste (MSW) landfills. As pointed out in the petitions, the failure to define those terms in the Texas Administrative Code leaves open the possibility that having a contractor named as an “Operator” or “Site Operator” on landfill permits could give that contractor control of the landfill—a huge problem in the cases of cities and counties that own landfills run by private contractors.

The list of those asking TCEQ commissioners to open the rulemaking and fix the problem was impressive, including several state senators and representatives (including Hutto's representative-elect, Diana Maldonado. Others supporting the petitioners included Polk County, the City of Corpus Christi, the Texas Association of County Judges and Commissioners, and even Williamson County Pct. 4 Commissioner Ron Morrison. *(A transcript of Morrison's comments follows this page.)*

Despite that heavy artillery, the TCEQ commissioners voted unanimously not to open a new rulemaking to fix the problem. In their discussion, they didn't even discuss the landfill control issue.

This development should be a huge wake-up call for Williamson County, which has a landfill permit expansion application pending at TCEQ. The attitude of TCEQ leaves little doubt regarding who TCEQ will side with when faced with the choice of putting Waste Management's name on the WilCo permit—which would give the landfill contractor a significant level of control over the facility.

It now appears that the only way for Williamson County to protect its permit and the county's landfill investment is to kill the pending expansion application. The attitude of TCEQ essentially leaves the county with no other choice.

**Comments of Williamson County Commissioner Ron Morrison
at the Texas Commission on Environmental Quality on Dec. 10, 2008**

Good morning Mr. Chairman, commissioners,

I am a county commissioner in Williamson County, and I have a landfill in my precinct. And I have also with me today on this matter, and to speak on another matter, Commissioner Valerie Covey. I just appreciate the opportunity, and I've sat in your position sometime in commissioners court, and brevity is our friend, so I'll be as brief as possible. But I just appreciate the opportunity to be here today, and ask you that you support this petition.

The issue of the permittee for a landfill permit is very important to Williamson County, given some conflicting positions that has been taken, not on just our permit, but perhaps some others. We recently sent a letter, asking for clarification, and I will say that this proposed definition in rulemaking will clarify hopefully once and for all that, in our case, Williamson County is the permittee, and they own the land and responsible for the operation and ultimate responsibility for the entire landfill. We understand also that this issue is not just confined to our county, but is a statewide rule clarification and hopefully will clarify this once and for all. Probably, our case might be a basis for this rule. That's all I have to say—I just ask that, you asked us not to be specific, and I will refrain from doing that.

Do you have any questions?

(No questions.)

Thank you for allowing me to be here, and I do ask you once again to support this petition.