

**RESPONSE TO PUBLIC COMMENTS SUMMARY
ENVIRONMENTAL WASTE SOLUTIONS, LLC
EWS CAMDEN CLASS II LANDFILL (IDL 03-0212)**

Division of Solid Waste Management (DSWM) has prepared this response. The document is structured in a point-by-point **Comment/Response** format, with comments appearing in standard text, and responses appearing in *italics* to delineate the two.

Comment #1: The site was not properly approved according to TCA 68-211-701-707 (Jackson Law). The city nor the county provided public notice for the facility.

Response #1: *Current Chancery Court litigation will determine the outcome of this comment. TDEC acted in good faith based on letters from both county mayor and city mayor. In 2004 the city and county approved the disposal facility. See also the Response to Comment #51.*

Comment #2: “Where is the proof bringing this Class IV to a Class II?”

Response #2: *The facility was public noticed as a Class II disposal facility by TDEC-DSWM. The Preliminary Public Notice for Class II was issued July 24, 2008. The Notice of Intent to Issue Permit was issued November 6, 2008. Final Permit was issued to Custom Tire & Recycle, LLC on December 30, 2008.*

Comment #3: I’m calling upon Commissioner Martineau to require proof within ten days of public notice from the city, public notice from the county, and if he cannot find it, if it is not provided, to begin steps to revoke the permit.

Response #3: *TDEC has accepted the information provided by Benton County and the City of Camden regarding adoption of the Jackson Law.*

Comment #4: Acetylene, Hydrogen and Methane are produced by smelter waste exothermic reaction.

Response #4: *A detailed characterization of on-site gases was done. Acetylene was not identified. Methane and Hydrogen are present and will be monitored and will be required to be controlled. Facility-Specific Permit Condition number 1 requires that, prior to placement of waste into the next cell, the Permittee must have submitted for approval a landfill gas emission detection and repair program to both minimize gas releases from the facility and to maximize the effectiveness of the gas collection system.*

Comment #5: This stuff is flammable when wet.

Response #5: *The waste is not flammable, but may heat other flammable materials to ignition point. The waste disposed of at this facility will be kept separate from other wastes. Permit Condition number 6 has been added requiring that aluminum smelter wastes will be monofilled.*

Comment #6: Chlorides pass through clay and FML liners.

Response #6: *There is data that indicates chlorides may pass through clay at a higher rate than the permeability of the clay would allow through the mechanism of diffusion, but no data exists to support pass through of a FML that is properly installed and undamaged. To the contrary, according to page 532 of a technical paper entitled “Diffusion of Chloride and Dichloromethane through a GeoMembrane” by Rowe, Hrapovic and Kosaric, appearing Volume 2, Number 3, of the 1995 publication Geosynthetics International, “...for a commonly used HDPE geomembrane there is negligible diffusion of chloride over a period of about 900 days”, which was the duration of their study. The design of this facility utilizes primary and secondary flexible membrane liner components in the sump areas of the fill area.*

Comment #7: The facility will contaminate groundwater.

Response #7: *The facility is designed in accordance with regulations, which require groundwater to be protected and monitored. There are four groundwater wells located around the landfill, one upgradient well and three down gradient wells. They are monitored semi-annually.*

Comment #8: The facility is located in a flooding area.

Response #8: *Rule 1200-1-11-.02 states that only items that are modified shall be reopened for modifications. While parts of the EWS property lie within the 500-year floodplain, the landfill footprint does not. The flood issue was addressed in previous permit reviews. However the facility was found to be in compliance with the buffer requirements found in Rule 1200-1-7-.04(2)(n)(Location in Floodplain).*

Comment #9: Under violations already identified, can the permit not be terminated?

Response #9: *Violations are dealt with through enforcement policies that begin with notification of violations provide for issuing Commissioner's Orders, etc. and may conclude with termination of permits. However, facilities are provided due process throughout the enforcement procedures, which provide for first correcting violations.*

Comment #10: The facility owner and operators are inexperienced. Did the State check into that?

Response #10: *The facility is required to comply with all applicable Solid Waste Regulations. Facility specific condition #4 has been added to the permit, which will require the presence of a Tennessee certified landfill operator to be on-site during all hours of operation.*

Comment #11: Are the terms and conditions of this permit the same as previous permits issued to this facility.

Response #11: *The terms and conditions for the proposed modification have been revised. The proposed modification is to be fully compliant with all Class II disposal facility regulations. The previous permits for the facility provided variances and waivers for some Class II requirements.*

Comment #12: The facility never began operation; therefore, recertification should be required by Rule 1200-1-7-.02 (2)(d) 1.

Response #12: *Custom Tire and Recycle did begin operation. A small amount of baled waste tires were placed in the original Class IV disposal facility. The permit modification for expansion as a Class II disposal facility was issued December 30, 2008. Construction started prior to December 30, 2009.*

Comment#13: Why is the proposed modification considered to be a major modification when the permitting process itself was a minor modification going from coal ash to aluminum dross?

Response #13: *The facility received a minor modification for disposing of coal ash directly as a result of the Tennessee State Legislature passing a statue requiring coal ash disposal facilities to be lined. The law became effective July 1, 2009. The waste generators requested special waste approval for secondary aluminum smelter wastes after the upgrade modification for coal ash disposal was approved. New Facility-Specific Permit condition number 3 requires that the Permittee must receive a Special Waste Approval for each generator of a secondary aluminum smelter waste stream to be disposed of at the facility. See also responses to Comments # 48 and #50 for additional detail.*

Comment #14: Do you (TDEC) believe aluminum dross (secondary smelter waste) is toxic?

Response #14: *Secondary aluminum smelter waste is not listed as a hazardous waste. At the present time, there are no known secondary smelters who generate a characteristic hazardous bag house or salt cake waste. All wastes approved for disposal at this facility are required to evaluate and determine the wastes do not meet the definition of Hazardous Wastes as determined by Rule 1200.1-11-(.1) –(.12).*

Comment #15: Do you (TDEC) believe it (secondary aluminum smelter waste) is corrosive?

Response #15: *The waste does not meet the definition of a characteristic hazardous waste for corrosivity. However, the waste does exhibit some corrosive behavior due primarily to the salt content of the waste.*

Comment #16: There were numerous questions/comments from the night of the public hearing (July 26, 2011) expressing concerns about health effects associated with exposures to the ammonia vapors (as well as methane, hydrogen, acetylene, etc) emitted from the landfill, including some descriptions concerning personal health impact experiences.

Response #16: *The following response was provided by the Tennessee Department of Health's Environmental Epidemiology Program (EEP). Their program receives funding from the federal Agency for Toxic Substances and Disease Registry (ATSDR) to assist local, state, and federal environmental regulatory programs with understanding the potential health effects of environmental pollution. The Environmental Epidemiology Program has assisted TDEC with the issues at the EWS Landfill. EEP's investigation is continuing.*

Waste materials buried in the landfill are believed to be the source of the ammonia in the air in Camden. Solid aluminum dross and salt cake are trucked to Recycling Ventures to be processed. Waste materials are buried in the EWS Landfill. It is not likely that community members would come into contact with solid aluminum dross or salt cake.

Aluminum dross reacts with water. When this happens, some chemical vapors are released. A test of gases inside the landfill showed that ammonia is the most common gas followed by methane and hydrogen. There were some flammable gases such as propane, propylene, ethane, acetonitrile and acetylene were found in the landfill gas. Other chemical gases were found in much smaller quantities. EEP is considering all of these chemicals in our on-going investigation.

Many people have complained about an ammonia odor. Ammonia was the most common chemical gas found in the landfill. Ammonia is a colorless gas that has a pungent odor. The smell of ammonia is familiar to many people because ammonia is used commonly in cleaning products.

Based on citizen complaints, our site visit and air testing results, it seems that the ammonia in the air near the landfill comes and goes. The chemical odor can be overpowering. We acknowledge that the citizen odor complaints are real. Government workers have smelled pungent odors in the neighborhood near the landfill and have experienced symptoms of ammonia exposure similar to the symptoms reported by local residents during the public hearing.

At about 5 parts per million of ammonia in air, people begin to smell it. Just because you can smell ammonia does not mean that you will have health symptoms. The amount of ammonia that studies have associated with health effects such as irritation to the eyes, nose, and throat is about 25 parts per million (ppm).

Health comparison values are often used to consider the potential for adverse health effects if someone is exposed to a chemical hazard. In this case, the amount of ammonia someone breathes over time is very important. We consider different exposure periods. In public health, an acute exposure is up to 2 weeks. A chronic exposure period is more than 1 year. Because the EWS Landfill has been operating since 2010, TDH is reviewing ammonia in air data for both acute and chronic exposure periods.

When considering these exposure periods, data are often averaged over time. The average tends to blend the higher ammonia values with the times that no ammonia was present. Therefore, on average, an exposure period may not show a high level of ammonia, even if there was a strong and unpleasant odor during the period. During periods of higher ammonia values, residents could have symptoms of exposure.

Air testing has shown that there is more ammonia present around the EWS Landfill than what is normally found outdoors. The typical background amount of ammonia in outdoor air across the United States is between 0.2 and 10 parts per billion (ppb). This amount is much less than what has been measured around the landfill.

The most common health effect caused by ammonia is irritation to the eyes, nose or throat. Potential adverse health effects depend on how the ammonia enters the body. For example, accidentally drinking an ammonia-based cleaner will cause pain when swallowed and burning of the throat and stomach. These potential adverse effects would not be expected from breathing ammonia gas in the air. Breathing ammonia over a short period of time can cause nose and throat irritation. Irritation in the respiratory tract can cause coughing, wheezing and shortness of breath. Breathing very large amounts of ammonia, greater than 300 ppm, can burn the airways and even be lethal.

There is no evidence that ammonia affects children differently. Children and adults experience the same potential adverse effects from ammonia. Persons who are hyper-reactive to other respiratory irritants or are asthmatic, may be more susceptible to the inhalation of high concentrations of ammonia. For residents with pre-existing medical conditions such as asthma, cardiopulmonary lung disease (COPD), emphysema or other physical health limitations, symptoms of exposure to ammonia may be more severe. There is no evidence that ammonia causes cancer.

Some people commented on having experienced metallic taste. As aluminum dross or salt cake contains metals, it might be possible to get a metallic taste if there was a lot of dust in the air. A metallic taste is not associated with ammonia gas. We did not come across any information in the scientific literature that would suggest that a metallic taste would be likely. EEP will consider the metallic taste complaints as we continue our investigation.

Some people commented on a gray dust or damage to plants. It would be possible for aluminum dross or salt cake dust to blow offsite in the wind and settle out on vegetation. TDEC has a plan

to observe some vegetation in the area to check if it is being affected by dust. EEP will also consider the gray dust complaints as we continue our investigation.

There were concerns about the health status of residents in Benton County. According to some reports, statistically, Benton County does rank poorly for health status when compared to other counties in Tennessee. The health behaviors that ranked Benton County poorly were not due to air pollution. The data used to make these reports were often from 2000 to 2008, which predates the landfill odor issues. Therefore, no connection can be made between the health outcomes in the reports and the landfill odor complaints. For those interested, health data and reports are available from www.countyhealthrankings.org/ or health.state.tn.us/statistics/.

Environmental concerns related to health can be quality of life issues. Although it can be difficult to measure, stress and other effects on mental and emotional health can occur. If someone smells strong odors, then it can limit their outdoor activities such as yard work or walking the dog. Poor air quality can prevent physical exercise as people tend to stay indoors when the outdoor air is unpleasant. Although it may not be possible to measure, stress is an adverse health outcome. Quality of life issues should be considered when investigating environmental health issues.

TDEC will locate an air monitoring station within the subdivision adjacent to the EWS facility. The air monitoring device is a continuous air monitoring station and will collect air data for a minimum of 90 days. The station will be maintained and operated solely by TDEC. All data will be gathered and analyzed by TDEC staff, with the raw and processed data evaluated by staff members of the Tennessee Department of Health.

Comment #17: Neighbors have been forced to alter lifestyles due to presence of ammonia odor associated with the disposal facility.

Response #17: *Facility-Specific Permit conditions number 1 and 2 have been added to address this issue. Condition 1 requires a landfill gas emission detection and repair program for locating and repairing any sources of gas emissions, and condition 2 requires an approved air monitoring plan to be in place to verify that emissions are being controlled.*

Comment #18: Particulate air pollution is occurring at the disposal facility.

Response #18: *Two Facility-Specific conditions have been added to the Permit. Condition number 5 requires installation of a curtain or similar measure to effectively enclose the storage building during unloading of waste. Condition number 6 requires that within 30 days of the effective date of this Permit, the Permittee must submit a plan to the Division of Solid Waste Management for installing controls on the salt cake storage building to minimize salt cake/baghouse dust particulate emissions. The plan must also include a procedure for minimizing dust generation along service roads and at the working face. Service roads between the facility entrance and the working face must be patrolled routinely, and all spilled baghouse dust/salt cake must be immediately picked up and either landfilled, or placed into the storage facility. Within 30 days of approval of the submitted plan by Division of Solid Waste Management, the Permittee must complete construction of dust controls.*

Comment #19: The facility does not comply with intent of Federal Environmental Justice Policy.

Response #19: *The Division of Solid Waste Management reviews each landfill application for compliance with Tennessee Rule Chapter 1200-1-7, which are the regulations that apply to landfills. These Rules do not specifically address environmental justice, land use, or zoning and these issues were not part of the permit process. The Division did, however, ensure the full and fair participation by all potentially affected communities in the environmental decision-making process. On June 30, 2011, the Division issued a public notice to conduct a public hearing on July 26, 2011 in Camden, Tennessee to allow for adequate time for comments to be submitted. The Division received numerous comments (including e-mails) from the local community.*

Comment #20: Concerns about Recycling Ventures, Inc.

Response #20: *Recycling Ventures does not require a permit from the Division of Solid Waste Management.*

Comment #21: Is there a connection between TDEC, Commissioner Martineau and the law firm representing EWS.

Response #21: *Commissioner Martineau was formerly a staff attorney with Waller Lansden, which currently represents EWS; however Commissioner Martineau has not represented EWS..*

Comment #22: Did construction begin on cell prior to permit issuance.

Response #22: *Construction activities associated with the area of the permit modification have been conducted within the parameters of the existing permit for the facility.*

The facility is currently permitted for approximately 42 acres of fill. The modification changes the design of but not the capacity of the disposal facility.

Comment #23: Rule 1200-1-7-.02(4)(a)(1) duty to comply. EWS has not taken all reasonable steps to minimize releases to the environment and to prevent adverse impact on human health or the environment.

Response #23: *Rule 1200-1-7-.02(4)(a)(1) is a performance regulation not a permit regulation. Although EWS has been cited for violations of this rule, there has been and continues to be remedial action taken to address this issue.*

Comment #24: Rule 1200-1-7-.02(4)(a)(3) Duty to mitigate. EWS has not taken all reasonable steps to minimize releases to the environment and to prevent adverse impacts on human health.

Response #24: *Rule 1200-1-7-.02(4)(a)(3) is a performance standard for disposal facilities. This regulation is not a permit design standard. EWS has taken and continues to take remedial action to comply with the performance standard and Consent Order.*

Comment #25: Rule 1200-1-7-.02(4)(a)(4) Proper operations and maintenance. Permittee shall operate and maintain effective performance, etc.

Response #25: *Rule 1200-1-7-.02(4)(a) is a performance standard regulation and not a permit design regulation. However, EWS has generally complied with the operating permit and solid waste regulations.*

The issue with odor release has been and will continue to be addressed through remedial action until the problem is abated.

Comment #26: Rule 1200-1-7-.02(4)(8) This regulation expressly clarifies that no property rights or exclusive privileges are transmitted to the permit holder (EWS).

Response #26: *No property rights or exclusive privileges will be transmitted to the permittee if the permit modification is issued.*

Comment #27: Rule 1200-1-7-.02(4)(10) Reporting requirements requires the operator to record (report?) every problem to TDEC within 24 hours. We ask for full compliance with this.

Response #27: *The Rule requires reporting of certain incidents. This facility will be required to comply with this regulation.*

Comment #28: Fact sheet states facility is approximately three miles from the court square –Camden.

Response #28: *The record will be changed to reflect that the actual distance from the edge of the EWS property boundary is approximately 0.5 miles from the Camden court square.*

Comment #29: Ammonia odor has been released from facility for 14 months. Residents expect not to breathe ammonia 100 percent of the time.

Response #29: *Although TDEC does not regulate odors, steps are being taken to address ammonia emissions from the site. Facility-Specific Permit conditions 1 and 2 have been added to address this issue. Also refer to the response to Comment #16.*

Comment #30: The facility has cut down on residents' lives for money. Will the company pay medical bills?

Response #30: *TDEC does not have jurisdiction to require a private company to pay for medical bills. TDEC is requiring the facility to comply with laws and regulations that prevent adverse impact to human health or the environment.*

Comment #31: In November 2010, a truck in transport caught fire.

Response #31: *Transportation of waste is regulated by the Department of Transportation. TDEC does not directly regulate transportation of waste.*

Comment #32: Was first cell of disposal facility a monofill?

Response #32: *Only secondary aluminum smelter waste was placed in Phase II Cell 1 of this disposal facility.*

There is an area of the disposal facility in which a small amount of waste baled tires was disposed of by the previous owner. However, the waste tires are not located near the current disposal area.

Comment #33: Does EWS record and file copies of the MSDS sheets?

Response #33: *The SARA Federal Law requires facilities to keep MSDS sheets on site for all hazardous materials. TDEC is not responsible for MSDS sheets.*

Comment #34: What steps are taken to correct the fact EWS is in violation of TCA 68-211-814 by not having gone before the Regional Solid Waste Board?

Response #34: *The Regional Plan provides as follows on page 8/9: “Regarding permit review, the County Commission and Solid Waste Board is assigned to this task. The County Commissioners review, and approve or disapprove permits related to the siting of solid waste disposal facilities.” The EWS site was approved by the County Commissioners August 16, 1999 (known at that time as Custom Tire and Recycle Co. Landfill). The County Commission approved the expansion of this facility on September 20, 2004. Also see Response # 51*

Comment #35: What steps have TDEC and EWS taken to monitor air quality, groundwater contamination, integrity of liner and monitor dewater areas leading to the Tennessee River?

Response #35: *Air monitors have been installed; and groundwater monitoring wells are installed and sampled semi-annually. A construction quality control procedure is required for construction certification for demonstrating integrity of liner components. Dewatering areas are not monitored by DSWM.*

Comment #36: Is there a plan to monitor the temperature of the fill? What is procedure in event of excessive rise in temperature?

Response #36: *There is no temperature monitor proposed for the fill area. However, Facility-Specific Permit condition number 16 requires random inspection, including measurement of temperature, of twenty percent (20%) of containers of baghouse dust must be performed to prevent containers with exothermic reaction from being landfilled. Records of these inspections must be kept at the landfill site. Additionally, the facility is designed with a two-foot earthen buffer between the bottom of the fill and the top of the leachate collection system. The earthen buffer is designed to protect the FML liner from excessive heat.*

Comment #37: What is the fill rate; minimum and maximum per month?

Response #37: *The permit application stated the design life was based on accepting approximately 900 cubic yards of waste per day. However, there is not a permit condition that sets a maximum or minimum rate of disposal. The original capacity of the disposal facility was approximately 6,370,000 cubic yards. Approximately 250,000 cubic yards of capacity have been used.*

Comment #38: Does the daily procedure for covering the material include procedures for adverse weather? How much time is allowed to cover that material?

Response #38: *The operations manual addressed inclement weather. The waste is not to be disposed of during precipitation events. Exposed waste must be covered prior to leaving at the end of the day or before precipitation begins*

Comment #39: What is EWS’s plan for containment failure? Plan for all dross related fire?

Response #39: *The facility does not have a contingency plan for containment failure. The facility is designed to contain the waste. Fire control is addressed in the operation manual.*

Comment #40: Does EWS have enough monetary reserve to handle a problem like the Ohio (country wide) fire? What is the exit plan when site is full?

Response #40: *EWS has provided appropriate financial assurance to close facility. After closure, thirty years of post-closure care is required which continues groundwater monitoring, landfill gas monitoring, final cover evaluation and maintenance and leachate management.*

Comment #41: Phosphine is generated by this product. The waste may contain other heavy metals.

Response #41: *TDEC has no information indicating that Phosphine is present. Other constituents may be present; however, the waste has not been determined to meet the definition of hazardous waste.*

Comment #42: Is the facility going to accept bag house dust? Reference Alcoa MSDS ID1013 should not mix with iron oxide.

Response #42: *The facility will accept bag house dust from secondary aluminum smelters but will not mix with iron oxide.*

Comment #43: Property values have been devalued.

Response #43: *Devaluation of property values is not within the purview of the Solid Waste Regulations.*

Comment #44: Is TDEC understaffed? Considering the number of complaints, TDEC should have been on this site several times a week.

Response #44: *Due to recent economic conditions Tennessee State Government has been required to make fiscal adjustments in order to meet budgetary requirements. The Division of Solid Waste Management Jackson Field Office Staff have been at the Environmental Waste Solutions disposal facility and surrounding area very frequently at various times during the day and night for the past year. The Facility has been subject to 31 compliance inspections from January 2010 through July 2011. The Division of Solid Waste Management is required to inspect Class II disposal facilities once per month.*

Comment #45: Why is recycling done at the disposal facility instead of the aluminum companies.

Response #45: *Recycling is not done at the disposal facility. Recycling Ventures, LLC. Operates a ball mill near the disposal facility and does reclaim aluminum from secondary aluminum smelter waste.*

Comment #46: Is the waste reactive when mixed with water or precipitation?

Response #46: *Some of the waste materials do generate heat, water vapor, ammonia, methane, and hydrogen when mixed with water. None of the wastes accepted for disposal at this facility have been determined to be hazardous waste for reactivity.*

Special handling is required to reduce the potential for the waste to come in contact with water. Wastes may not be transported or disposed of during precipitation events, waste must be covered with a minimum of 12 inches of low permeability soil at the end of each day and prior to precipitation events. A flexible membrane is included in the final cover requirements for the facility.

Comment #47: What will happen if lightening strikes the disposal facility. Is it possible that some flammable gases could be ignited.

Response #47: *The solid waste regulations do not directly address lightening strikes at disposal facilities. The regulations do require appropriate fire fighting procedures and equipment to be provided for regardless of the ignition source of a fire.*

Comment #48: Why was secondary Aluminum waste approved for disposal in 2009 as a minor modification and not subject to public notice or public hearing.

Response #48: Rule 1200-1-7 (5)(b)(v) states “ In a permit modification under this part, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this part, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

This comment is not subject to review at this time. However, the minor permit modification was issued for the following reasons:

1. The state legislature passed a law which became effective July 1, 2009 requiring all coal ash disposal to be conducted in lined facilities.
2. Deputy commissioner Paul Sloan determined that lined coal ash disposal facilities would be required to meet Class I disposal facility design standards.
3. Custom Tire and Recycle, LLC (previous owners of the EWS disposal facility) was notified in writing the design of the disposal facility would be required to be upgraded to be fully compliant with Class I disposal facility design standards.
4. Custom Tire and Recycle submitted a design upgrade modification, which was determined to meet the requirements for a minor modification.
5. The minor modification for the design upgrade to dispose of coal ash was approved.
6. Custom tire and recycle then requested a minor permit modification to accept secondary aluminum smelter special waste.
7. Because the approved design upgrade modification provided for a disposal facility design that met all current design requirements for a Class II disposal facility the minor modification was approved.

Comment #49: The facility is not located in compliance with EPA sensitive area distance requirements.

Response #49: This disposal facility is not subject to the EPA requirements cited. The facility was found to be in compliance with the buffer zone requirements found in Rule 1200-1-7-.04 (3) (a) 3. This regulation requires Class II disposal facility fill areas to be at least 500 feet from residences unless the owner of the property agrees in writing to a shorter distance.

Comment #50: Commenters raised the issue as to whether the upgrade of the EWS permit to a Class II facility was/should have been a Major Permit Modification or a Minor Permit Modification.

Response #50: After a permit has been issued, the regulations address the circumstance where a permit modification is required due to a change in the law or regulations. The two rules set-out below control this circumstance. In EWS’ case, the liner requirements for an ash fill came into being after EWS had been issued a permit that allowed it to receive ash. This change required the facility to be upgraded to a class II facility. This was a minor modification of the existing permit because it decreased the potential impact of the facility (adding the liner requirement put in place more protection of public health and the environment. See especially the highlighted portions of the applicable rules.

1200-1-7-.02(5)(a)3. Causes for Modification - **The following are causes for modification** but not revocation and reissuance of permits. However, the following may be causes for revocation and reissuance as well as modification when the permittee requests or agrees:

(i) There are changes to the permitted facility, which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(ii) The Commissioner has received information, which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(iii) **The standards or regulations on which the permit was based have been substantially changed by legislation or promulgation of amended standards or regulations or by judicial decision after the permit was issued.**

And,

1200-1-7-.02(5)(a)5. Minor Modification of Permits - Upon the consent of the permittee, the Commissioner may modify a permit to make the corrections or allowances for those changes in the permitted activity deemed by the Commissioner to be a minor modification without following the procedures of paragraph (3) of this rule. **A minor modification is a change in the plans for a facility which will not alter the expected impact of the facility on the public, public health, or the environment.**

Comment #51: One of the commenters raises the issue as to whether the requirements for local (city/county) approval have been satisfied.

Response #51: Both the City of Camden and Benton County have adopted Tennessee Code Annotated (T.C.A.) 68-211-701 et. seq. This law, commonly known as the “Jackson” Law, requires local approval “for any new landfill” before the Department may issue a permit. (emphasis added).

In 2004, the previous owner of the EWS landfill submitted a request to expand the footprint of the then existing landfill to both the City of Camden and Benton County. The City of Camden approved the requested expansion of the then existing landfill site (19 acre footprint with a maximum capacity of approximately 6,300,000 yd³) on October 11, 2004. Benton County approved the requested expansion of the then existing landfill site (19 acre footprint and capacity of approximately 6,300,000 yd³) on September 20, 2004. These approvals covered the entire current landfill site. Copies of these letters are attached. Also attached is an article from **The Camden Chronicle** dated October 27, 2004. This article clearly reports that the Board of Mayor and Alderman approved the expansion of the existing permitted landfill site to “basically cover the entire chert quarry”.

Note that TCA 68-211-701 does not distinguish between classes of landfills and simply refers to “any new landfill”. The current permit modification request does not expand the landfill off of the currently permitted footprint (19 acre footprint with a maximum capacity of approximately 6,300,000 yd³). Simply stated, the current permit modification does not involve the permitting of a new landfill or the expansion of an existing landfill. Therefore, the current permit modification does not require local approval under the Jackson Law (T.C.A. 68-211-701 et seq.).

THE CITY OF CAMDEN

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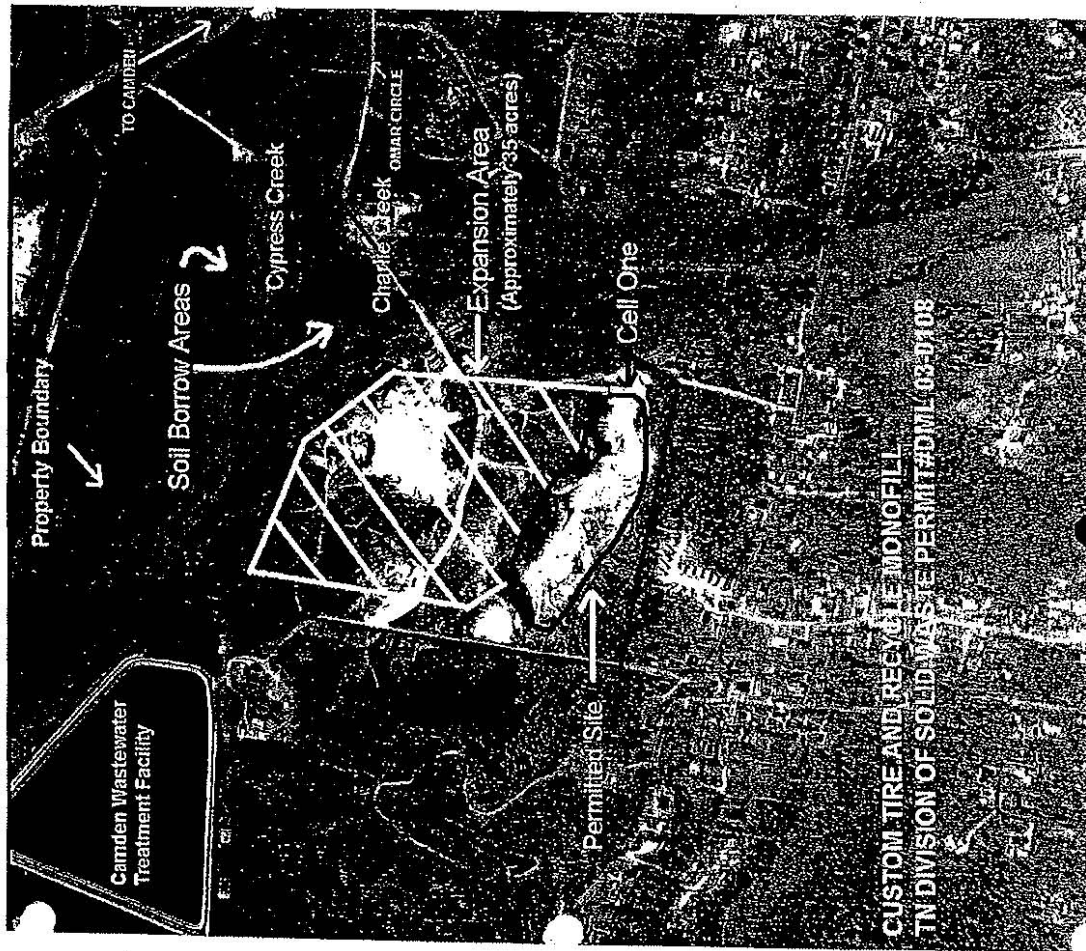
October 12, 2004

TO WHOM IT MAY CONCERN:

On Monday, October 11, 2004 the Mayor and Board of Aldermen of the City of Camden met in regular session at City Hall. The Board voted unanimously to approve the request of Custom Tire & Recycle to expand the Class IV Landfill as presented to the Board. (Attachment)

Sincerely,

Phyllis Woodard
Phyllis Woodard
City Clerk/Recorder

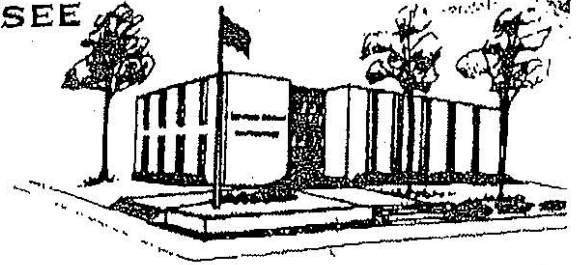


BENTON COUNTY

THE MAGIC VALLEY

CAMDEN, TENNESSEE

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September 24, 2004

Tenn. Dept. of Environment & Conservation
Division of Solid Waste
401 Church St.
L & C Tower, 5th Floor
Nashville, TN 37243-1535

To Whom It May Concern:

The Benton County Commission, on September 20, 2004, under the Jackson Law, voted to authorize expansion of Mr. Ray Warren's Permit.

Sincerely,

Jimmy Thornton (K.L.)

Jimmy Thornton
Benton County mayor

October 27, 2004

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10/13/04

Robert Cobb

When the Camden Aldermen met Monday night for its Monthly business meeting, Mayor Travis announced that Alderman Ernie Madry was improving after back surgery last week. Other Aldermen present for the meeting were Allen Webb, Harvey Jones, Roger Pafford, and Elvin Johnson.

The first item of business was awarding the bid for the timber cutting at Camden City Park. The low bid was from Fuzzy Sawmill of Camden for \$12,500 for the timber. The high bid was from Bush Logging for \$23,000. The Aldermen chose the Bush Logging bid because Bush Logging will pay the City for the timber.

Mayor Travis told the Board that the City needed a fixed capitalization procedure. Gary Farmer said that what this means is what you would consider as an asset would be shown as such.

"The Water Department has always shown depreciation of assets, while cities have not. Now we are being told we must do this," Farmer said. On a motion by Pafford, seconded by Johnson, the Board voted to adopt this procedure.

Bid openings were held Tuesday, October 5, 2004 at 10:00 a.m. for Omar Circle Water Line Extension Project. Revell Construction Company was the low bidder for the project with the low bid of \$93,015.00. On a motion by Pafford, seconded by Johnson, the bid from Revell Construction Company was approved.

The Board received a request for permission for Custom Tire and Recycle to expand the limits of the end of Omar Circle in Camden. The requested expansion will basically cover the entire chert quarry within which the existing permitted site is situated. With the expansion of the footprint the facility will approximate 50 total acres.

The purpose of the request for the expansion of the existing footprint is to qualify with TVA to bid on contracts for coal ash management projects. In order to qualify to bid on TVA projects, CTR must provide sufficient air space to satisfy the volume of coal ash generated by TVA. On a motion by Pafford, seconded by Johnson, the Board voted to grant the request from Custom Tire and Recycle to expand limits of Class IV landfill. ••

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