OLSON&OLSON LLP
ATTORNEYS AT LAW

August 9, 2013

Ms. Jocelyn Samuels
Acting Assistant Attorney General
U.S. Department of Justice
Office of Civil Rights
950 Pennsylvania Ave NW
Washington, DC 20530

VIA CMRRR

Certified Article Number
7196 9008 9111 6504 7017
SENDERS RECORD

RE: Title VI Complaint: Discriminatory land use practices and issues of environmental justice by Waller County, Texas, in the Permitting of Pintail Landfill/Transfer Station in Hempstead, Waller County, Texas;

Title VI Complaint – Texas Commission of Environmental Quality (TCEQ) Final Approval of Transfer Station Registration No. 40259.

Dear Ms. Samuels:

The racial minority City Councilmembers of the City of Hempstead, Waller County, Texas (the "City"), now file this Complaint with the United States Department of Justice in response to the discriminatory land use practices and infringement upon environmental justice by the Texas Commission of Environmental Quality (the "TCEQ") and by Waller County, Texas ("Waller County"). The following Complainants were duly elected by the citizens of the City and, as such, act on behalf of the City as Mayor and City Councilmembers and as African-American residents ("Complainants") affected by the discriminatory land use practices and infringement upon environmental justice by the TCEQ and Waller County:

Mayor:

Michael S. Wolfe, Sr.	African-American

Councilmembers:

Emma Washington	African-American
Katherine Ragston	African-American
Charles Tompkins, Jr.	African-American

Each elected official is a resident of the City and is African-American. These officials believe that it is necessary to file this Complaint with the Department of Justice in order to protect the health, safety and welfare of the citizens of the City and to combat discriminatory land use practices and infringement upon environmental justice by the TCEQ and Waller County. The

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Complainants believe that actions taken by the TCEQ and Waller County negatively impact the residents of the City in general, whom the officials have taken an oath to protect, and, adversely and disparately impact the City's minority groups African-Americans and Hispanics, in particular. The Complainants are represented by the undersigned. All contact with the Complainants should be made through the undersigned or with the express permission of the undersigned.

I. Summary of Claims

On February 13, 2013, Waller County, Texas adopted the Ordinance and entered into the Host Agreement with Pintail Landfill, LLC, allowing a municipal solid waste landfill and transfer station to be located within the City's ETJ despite the hundreds of persons attending the public hearing in protest of the landfill and transfer station. *See* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"); *see also* EXHIBIT L – February 2013 news articles. Land use decisions, like the Ordinance adopted by Waller County, that on their face are race neutral, routinely allow communities of color and poor communities to be used for industrial and environmentally adverse uses. Frequently, discrimination results from policies and practices that are neutral on their face, but have the effect of discriminating against communities of color. Facially neutral policies or practices that result in discriminatory effects violate Title VI regulations, unless it is shown that they are justified and that there is not a less discriminatory alternative. The landfill/transfer station will adversely and disproportionately affect the minority population of the City and nearby areas. Waller County, as a recipient of federal funds, as well as the Federal and State agencies through which those funds pass to Waller County, have a statutory duty to ensure that land use decisions do not adversely affect minorities in the City of Hempstead area. Waller County ignored the information provided at the public hearing and failed to inform the state and federal agencies of the discriminatory impact the Ordinance will have on the minority community within the City and nearby areas.

Further, Waller County and the TCEQ have failed to provide substantial evidence that this solid waste disposal landfill and transfer station use fulfills a critical need within the County or demonstrated the reasoning for not placing this landfill in an alternative, less discriminatory location, such as the primarily Anglo Precinct 2. Waller County's adoption of the Ordinance directing that the landfill/transfer station be located within the City's ETJ and nearby areas violates Title VI of the Civil Rights Act of 1964 and should be investigated by the U.S. Department of Justice, as well as all Federal and State agencies that provide federal funding to Waller County, for violation of the Act.

On July 23, 2013, the TCEQ's Executive Director (the "ED") issued final approval of the registration application for the transfer station to be located at the site located within the City's ETJ and nearby areas. *See* EXHIBIT F - Notification Letter from TCEQ. On January 31, 2013, the TCEQ issued the Preliminary Decision and Draft Permit of the Municipal Solid Waste Permit No. 2377 by TCEQ to Pintail, LLC, for construction and operation of the Pintail Landfill, a municipal solid waste landfill. *See* EXHIBIT G - Notification Letter from TCEQ regarding Preliminary Decision. At this juncture, the ED has not issued final approval for the landfill to be located within the City's ETJ and nearby areas. The TCEQ's approval of the transfer station and the pending approval of the Pintail Landfill permit violate Title VI of the Civil Rights Act of 1964. Discriminatory land use practices significantly contribute to the disproportionate placement of hazardous and toxic uses within minority neighborhoods. The district court, in *Bean v. Southwestern Waste Management Corporation*, found that landfills would irreparably harm the community. The court specifically found that a landfill would "affect the entire nature of the community, its land values, its tax base, its aesthetics, the health and safety of its inhabitants[.]" *See Bean v. Southwestern Waste Mgmt. Corp.*, 482 F. Supp. 673, 677 (S.D. Tex. 1979), *aff'd without opinion*, 782 F.2d 1038 (5th Cir. 1986). Land use practices allowing environmentally hazardous uses in minority and low-income communities contribute to the overall decline of these communities. The presence of a use, such as landfill, decreases property value, displaces community members, and makes these areas undesirable. Juliana Maantay,

Zoning Law, Health, and Environmental Justice: What's the Connection?, 30(4) The Journal of Law and Ethics, 577–78, (Winter 2002). The location of the Pintail Landfill and transfer station leaves the surrounding property adverse and effectively denies the residents of the City the ability to fully use the neighboring property for dwelling and residential use; it further jeopardizes the residents' equal right to environmental safety and quality.

A. Waller County

On February 13, 2013, Waller County adopted an ordinance and entered into a license agreement with Pintail Landfill, LLC, allowing a municipal solid waste landfill and transfer station to be located within the City's Extraterritorial Jurisdiction ("ETJ"), despite the hundreds of persons attending the public hearing in protest of the landfill and transfer station. *See* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"); *see also* EXHIBIT L – February 2013 news articles. This Ordinance repealed an earlier ordinance that prohibited additional landfills or transfer stations from being located within the City's ETJ and areas near the City. The Ordinance enacted by Waller County now allows a landfill and transfer station to be located within the City's ETJ and areas near the City. Said Ordinance specifically prohibits the location of landfills and transfer stations in all areas of Waller County, except for the site that is within the City's ETJ and near the City. As a result, Waller County enacted a law providing that a landfill or transfer station may only be located within the City's ETJ or areas nearby. The authorized location is within six miles of Waller County's only two minority-majority cities, the Cities of Hempstead and Prairie View.

Waller County's land use regulation dictates the location of the landfill/transfer station and will adversely impact the residents of this minority-majority city. The placement of the landfill/transfer station disparately impacts the socio-economic quality of life, as well as the environmental quality, land value and ability to use land of African-American and Hispanic residents of the City. Waller County's Ordinance specifically excluded Precinct 2 as a location where a landfill could be located. Waller County Precinct 2 is seventy percent (70%) Anglo.

See EXHIBIT B - Waller County, Texas Submission of Redistricting for Election Precincts. The Waller County Precinct where the landfill/transfer station will be located, Precinct 1 and nearby Precinct 3 have minority populations of sixty percent (60%) and seventy-two percent (72%), respectively. *See* EXHIBIT B. The Waller County Ordinance provides that the only location in Waller County suitable for a landfill/transfer station is a location near where seventy-three percent (73%) of the African-Americans and fifty-four percent (54%) of the Hispanics within Waller County reside, Precincts 1 and 3. *See* EXHIBIT B. The Waller County Ordinance specifically targets African-Americans and Hispanics near the landfill to become victims of the detrimental effects specifically found by Waller County to be associated with a landfill. *See* EXHIBIT A.

When adopting Ordinance No. 2013-001, Waller County Commissioners Court made and adopted the following findings regarding the proposed landfill/transfer station prior to directing that the landfill/transfer station be located in the area of Waller County that has the highest concentration of minorities:

1. The disposal of solid waste is an activity that has high potential to negatively impact the health, safety and welfare of any community; and
2. That further disposal of solid waste in additional areas of the county would constitute an unacceptable risk and threat to the public health, safety and welfare for the reasons and findings stated below, among many others, to wit:
    a. The disposal of solid waste in general may negatively influence property values; and
    b. The use of all present technology and science with regard to the location, installation, operation and maintenance of municipal industrial and hazardous solid waste disposal sites, cannot guarantee or ensure that such sites will not contaminate, spoil, and pollute areas surrounding and distant to said disposal sites;

c. That if the substances contained within disposed of solid waste escape into the air or waterways, including subsurface waterways, significant threats to the public health, safety and welfare will exist; and

d. That the nature of the soils of Waller County is such that it would allow migration of waste and hazardous materials to the contamination of groundwater, which many citizens rely on for drinking water.

3. That the traffic associated with the disposal of solid waste, which involves receiving and dispatching a large number of heavy trucks hauling waste, constitutes a hazard to the public health and a threat to the public roads;
4. That waste streams that can be received in municipal and non-hazardous industrial waste facilities include chemicals that are toxic, corrosive, flammable, and explosive, and that such substances present a threat to the public health, safety and welfare; and
5. That prohibiting of solid waste disposal in other parts of the County is necessary to prevent a grave and immediate threat to life and property.

See EXHIBIT A at pages 2 and 3.

After making the above findings and hearing the many protests from residents, landowners, community leaders, elected officials and others, the Waller County Commissioners Court voted 3 to 2 to place the landfill/transfer station in the predominately minority portion of the County. Waller County's decision to allow this landfill in Precinct 1 and nearby Precinct 3, and no other area in the County, is a discriminatory act deserving of an investigation by the United States Department of Justice.

B. Texas Commission on Environmental Quality

The TCEQ, a recipient of federal funds, violated Title VI by approving the registration application for the transfer station located at the landfill site. *See* EXHIBIT F – Notification Letter from TCEQ, regarding Pintail Landfill, LLC Registration No. 40259; *See also* EXHIBIT C - TCEQ Federal Funding: U.S. Environmental Protection Agency Grant Awards; Legislative Budget Board Fiscal Size-Up 2012-2013 Biennium, excerpt. The permit will allow for

construction and operation of a municipal solid waste transfer station in Waller County, Texas, which has the effect of adversely and disparately impacting the minority community residents of the City. *See* EXHIBIT D - Pintail Landfill Waller County, Texas TCEQ Permit Application and Pintail Landfill Transfer Station, Type V Registration Application. Further, under federal regulations, a recipient of EPA assistance, TCEQ, is prohibited from:

- Using "criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex." 40 C.F.R. §§ 7.35(b).
- Choosing "a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any [applicable] program . . . on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of [the EPA anti-discrimination regulations]." 40 C.F.R. §§ 7.35 (c).

C. U.S. Department of Transportation and Texas Department of Transportation

Waller County is a recipient of United States Department of Transportation funds through the Texas Department of Transportation ("TxDOT"). *See* EXHIBIT E - Waller County, Texas Public Information Request Grant Information. TxDOT, as a recipient of federal funds, must comply with Title VI of the Civil Rights Act of 1964 and investigate reported acts of discrimination ("Title VI"). As such, this Complaint is filed pursuant to Title VI, 42 U.S.C. §§ 2000d to 2000d-7, and 40 C.F.R. Part 7. 40 C.F.R. § 7.35(b) provides:

> A recipient [of federal assistance] shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of

> the program with respect to individuals of a particular race, color, national origin, or sex.

On February 13, 2013 Waller County adopted an ordinance and entered into a license agreement with Pintail Landfill, LLC, allowing a municipal solid waste landfill and transfer station to be located within the City's Extraterritorial Jurisdiction ("ETJ"), despite the hundreds of persons attending the public hearing in protest of the landfill and transfer station. *See* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"); *see also* EXHIBIT L – February 2013 news articles. This Ordinance repealed an earlier ordinance that prohibited additional landfills or transfer stations from being located within the City's ETJ and areas near the City. The Ordinance enacted by Waller County now allows a landfill and transfer station to be located within the City's ETJ and areas near the City. Said Ordinance specifically prohibits the location of landfills and transfer stations in all areas of Waller County, except for the site that is within the City's ETJ and near the City. As a result, Waller County enacted a law providing that a landfill or transfer station may only be located within the City's ETJ or areas nearby. The authorized location is within six miles of Waller County's only two minority-majority cities, the Cities of Hempstead and Prairie View. The placement of the landfill/transfer station station disparately impacts the socio-economic quality of life, as well as the environmental quality, land value and ability to use land of African-American and Hispanic residents of the City.

D. U.S. Department of Homeland Security and Texas Department of Public Safety

Waller County is a recipient of Homeland Security funds through the Texas Department of Public Safety (the "DPS"). *See* EXHIBIT E - Waller County, Texas Public Information Request Grant Information. The DPS, as a recipient of federal funds, must comply with Title VI of the Civil Rights Act of 1964 and investigate reported acts of discrimination. As such, this complaint is filed pursuant to Title VI, 42 U.S.C. §§ 2000d to 2000d-7, and 40 C.F.R. Part 7. 40 C.F.R. § 7.35(b) provides:

> A recipient [of federal assistance] shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.

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E. U.S. Department of Housing and Urban Development

Waller County is a recipient of Department of Housing and Urban Development ("HUD"). As a recipient of federal funds, Waller County must comply with Title VI of the Civil Rights Act of 1964 and investigate reported acts of discrimination. As such, this complaint is

filed pursuant to Title VI, 42 U.S.C. §§ 2000d to 2000d-7, and 40 C.F.R. Part 7. 40 C.F.R. § 7.35(b) provides:

> A recipient [of federal assistance] shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.

Furthermore, the Fair Housing Act ("FHA"), Section 804, 42 U.S.C. 3604 states that it shall be unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin. The FHA gives HUD the power to receive and investigate complaints of discrimination, including complaints that a local government has discriminated in exercising its **land use** and zoning powers. On February 13, 2013, Waller County adopted an ordinance and entered into a license agreement with Pintail Landfill, LLC, allowing a municipal solid waste landfill and transfer station to be located within the City's Extraterritorial Jurisdiction ("ETJ"), despite the hundreds of persons attending the public hearing in protest of the landfill and transfer station. *See* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"); *see also* EXHIBIT L – February 2013 news articles. This Ordinance repealed an earlier ordinance that prohibited additional landfills or transfer stations from being located within the City's ETJ and areas near the City. The Ordinance enacted by Waller County now allows a landfill and transfer station to be located within the City's ETJ and areas near the City. Said Ordinance specifically prohibits the location of landfills and transfer stations in all areas of Waller County, except for the site that is within the City's ETJ and near the City. As a result, Waller County enacted a law providing that a landfill or transfer station may only be located within the City's ETJ or areas nearby. The authorized location is within six miles of Waller County's only two minority-majority cities, the Cities of Hempstead and Prairie View. The placement of the landfill/transfer station disparately

impacts the socio-economic quality of life, the ability to use the land for dwellings, as well as the environmental quality, land value and ability to use land of African-American and Hispanic residents of the City.

II. Civil Rights Violations

The alleged discriminatory acts are the adoption of the Ordinance 2013-001 and the Host Agreement by the Waller County Commissioners Court on February 13, 2013, and the final approval of Pintail Landfill, LLC Registration No. 40259 by the TCEQ, on July 23, 2013. *See* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"); *see also* EXHIBIT F – Notification Letter from TCEQ . Under the provisions of Waller County Ordinance 2013-001, the County prohibited the location of landfills and transfer stations in all areas of Waller County, except for the site that was located in the City's ETJ and nearby areas. As a result, the only location a landfill and or transfer station is not prohibited in Waller County is in the City's ETJ or adjacent to the only minority-majority cities within Waller County. Waller County's Ordinance specifically excluded Precinct 2 as a location where a landfill could be located, which is seventy percent (70%) Anglo. Consequently, Waller County Precinct 1, where the landfill/transfer station will be located, and Precinct 3, which is in close proximity to said landfill/transfer station, have minority populations of sixty percent (60%) and seventy-two percent (72%), respectively. The Waller County Ordinance provides that the only location in Waller County suitable for a landfill/transfer station is adjacent to the residences of seventy-three percent (73%) of the African-American and fifty-four percent (54%) of the Hispanic residents within Waller County. The landfill/transfer station location site directed by Waller County's Ordinance will adversely and disparately impact the African-American and Hispanic residents of this minority-majority City.

The final issuance of Pintail Landfill, LLC, Registration No. 40259, will authorize a Type V Transfer Station to accept 94 tons of waste per day for six days each week. In the initial year following construction of the facility, the transfer station will receive about 14,300 tons of waste.

The maximum rate of waste disposal is expected to be approximately 27,000 tons per year. The transfer station will be located on a tract of land comprising approximately 723 acres. The general property consists of grasslands with limited forest cover and generally slopes to the south and southeast to three tributaries of Clear Creek. The Type V Transfer Station will be located within the proposed Pintail Landfill boundary, approximately one mile north of the intersection of the State Highway 6 and US Highway 290, the primary access route, and east of State Highway 6, inside the ETJ of the City, at approximately Latitude 30.0803 North, Longitude 96.0340 West. *See* EXHIBIT D - Pintail Landfill Waller County, Texas TCEQ Permit Application and Pintail Landfill Transfer Station, Type V Registration Application.

Unlike permits issued under the Clean Water Act or the Clean Air Act in which distinct expiration dates are stated in the permit, the proposed permit will neither expire nor come up for a periodic renewal. As a result, there will be no opportunity to update the permit provisions with current legal and technical requirements, and there will be limited or, in some cases, no opportunity for the public to participate in these matters. In addition, Pintail Landfill, LLC (the "Applicant"), can continue to make key changes to the approved permit through other avenues, such as modifications under 30 Tex. Admin. Code § 305.70 or request variances, all without public knowledge or the provision of any opportunity for further public participation or with only very limited public participation opportunities. This proposed facility will be a fixture within the City for as long as can be foreseen. It is in this context that the Complainants as residents and elected officials of the City request an investigation by the Unites States Justice Department before the Pintail Landfill and transfer station permanently and irreparably harm the City and its residents.

III. Impact

The land use, environmental and quality of life impacts resulting from the implementation of this transfer station and the activities authorized by of Pintail Landfill, LLC Registration No. 40259 will include the following:

1. The frequent emission of offensive odors from the transfer station that cause lessened human food and water intake, interference with sleep, upset appetite, irritation of the upper respiratory tract (nose and throat) and eyes, headaches, dizziness, nausea, and vomiting among many of the complaints.

2. The frequent emission of fugitive dust from the landfill that causes particulate deposition on personal and real property of the Complainants, including homes, porches, vehicles, laundry, and plantings.

3. The frequent tracking of dirt and other solids from the transfer station onto Texas Highway 6 and/or U.S. Highway 290 where through traffic causes the dirt and other solids to become airborne particulates resulting in particulate deposition on personal and real property of many of the Complainants, including homes, porches, vehicles, laundry, and plantings.

4. Increased noise from operation of heavy machinery 5.5 days per week causing interference with sleep and other activities within the homes of the Complainants.

5. Increased populations of flies that are bothersome in and around the homes of the Complainants.

6. Increased populations of birds that cause droppings around the homes of the Complainants.

7. Groundwater and surface water contamination due to unauthorized dangerous wastes being deposited at the landfill and then leaching into the groundwater and surface water.

8. Environmental destruction to the estimated 5.3 acres of water (including wetlands) located within the proposed permit boundary.

9. Decreased property values and limitations to projected growth of the City.

Further, the greatest growth of the City is expected to occur along US Highway 290, south and southeast of the site of the transfer station. The use of the land for a landfill/ transfer station at the gateway to the City threatens its growth and is incompatible with the City's plans for promoting future economic growth.

In approving the Registration, the TCEQ did not adequately consider land use as is required under 30 Tex. Admin. Code § 330.61(h). Under this rule, "a primary concern" is "that

the use of any land for a municipal solid waste facility not adversely impact human health or the environment." *Id.* Building a transfer station over a recharge zone of a complex aquifer system that provides this community's only drinking water will adversely impact human health and the environment. *See infra* at 8-11. In the event that a release of contamination to groundwater occurs, there will be no practicable alternative source of drinking water for the City.

The location of the proposed transfer station/landfill is over the recognized recharge zone of a major aquifer system that is relied upon by the City as its sole drinking water source. Locating a solid waste disposal facility over such a sensitive area poses significant risk and threat to human health and the drinking water needs of the community. A review of the Application and associated documentation shows that the proposed landfill does not meet the requirements at the heart of the TCEQ rules – specifically, that proper safeguards be provided to protect the groundwater and surface water from contamination.

IV. Disparate impact

The adverse impacts described above will fall disparately upon members of minority races within Waller County, specifically the City. African-Americans make up 24.4% and Hispanics or Latinos make up 29% of Waller County's population. However, the Waller County Ordinance provides that the only location in Waller County suitable for a landfill/transfer station is a location near where seventy-three percent (73%) of the African-Americans and fifty-four percent (54%) of the Hispanics within Waller County reside, Precincts 1 and 3. *See* EXHIBIT B - Waller County, Texas Submission of Redistricting for Election Precincts. The Waller County Precinct where the landfill/transfer station will be located, Precinct 1, and nearby Precinct 3 have minority populations of sixty percent (60%) and seventy-two percent (72%), respectively. *See* EXHIBIT B. The 2010 census block data shows that census blocks impacted by the landfill/transfer station are 38.9 to 46.8 percent African-Americans and 29.1 to 43.5 Hispanic or Latino. *See* EXHIBIT H - 2010 United States Census Bureau, block data. Waller County's Ordinance specifically excluded Precinct 2 as a location where a landfill could be located. Waller County Precinct 2 is seventy percent (70%) Anglo. *See* EXHIBIT B.

The Waller County Ordinance specifically targets African-Americans and Hispanics near the landfill as victims of the detrimental effects specifically found by Waller County to be associated with a landfill. *See* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"). Waller County's Ordinance directed that the landfill/transfer station can only be located near the Cities of Hempstead and Prairie View. The City of Hempstead is a predominantly (76.3%) minority community. At the time of the most recent census taken by the U.S. Census Bureau, African-Americans accounted for 38.9% of its population, while Hispanics or those of Latino origin comprised 37.4% of the citizenry. The City of Prairie View population is 88.6% African-American and 7.7% Hispanic or Latino. *See* EXHIBIT I – United States Census Bureau, City of Hempstead Quick Facts and City of Prairie View Quick Facts.

In addition, Prairie View A & M University ("PVAMU") is located near the proposed landfill/transfer station. Established during the after the Civil War, PVAMU was the first state supported college in Texas for African-Americans. *See* History of PVAMU, http://www.pvamu.edu/pages/605.asp. The Fall 2012 enrollment of undergraduate and graduate students at PVAMU was 8,336, and 6,892 of those students were African-American. *See* EXHIBIT J - PVAMU Enrollment Statistics, Fall 2012. The landfill/transfer station will adversely and disproportionately affect the minority population at PVAMU. The landfill/transfer station will adversely and disproportionately affect the minority population of the City and nearby areas. The EPA compares the percentage of minorities in the affected population with the percentage of minorities in the service area of the landfill/transfer station and in the state to determine whether minorities near the landfill are disproportionately affected by potential impacts. It is clear that minorities near the landfill are disproportionately affected by potential impacts. The Waller County Ordinance prohibited landfills from being located elsewhere in the County. The primarily minority-majority cities of Hempstead and Prairie View are forced to bear a disproportionate share of environmental burdens. The proposed location of the Pintail

landfill/transfer station raises serious environmental justice concerns, which have not been addressed by the TCEQ and have been ignored by Waller County.

V. Justification and Less Discriminatory Alternatives

The Houston-Galveston Area Council ("HGAC") Closed Landfill Inventory demonstrates that a sufficient capacity of landfills already serve the City and the surrounding communities and are in acceptable locations to the citizens of the City. *See* EXHIBIT K - HGAC Closed Landfill Inventory Maps. Neither the transfer station registration application, landfill application permit, nor the Host Agreement detail a demonstrative need for an additional landfill or transfer station, and offer little justification of this location in light of the negative impacts this landfill will have on this minority-majority City. *See* EXHIBIT D - Pintail Landfill Waller County, Texas TCEQ Permit Application and Pintail Landfill Transfer Station, Type V Registration Application; *see also* EXHIBIT A - Waller County Ordinance No. 2013-001 (the "Ordinance") and Host Agreement between Waller County and Pintail Landfill, LLC (the "Host Agreement"). Further, the HGAC Closed Landfill Inventory Maps demonstrate a history of environmental discrimination, as the majority of the landfills in Waller County are located within the jurisdictions of the primarily minority-majority cities of Waller County. The absence of landfills in the primarily Anglo area of Waller County, also known as Waller County Commissioner Precinct District 2, is further evidence of discriminatory land use practices. *See* EXHIBITS B - Waller County, Texas Submission of Redistricting for Election Precincts; *see also* EXHIBIT K. As stated, the Waller County Ordinance prohibits landfills/transfer stations from being located at any other location within the County. The Ordinance prohibits locating the transfer station/landfill in the majority Anglo portion of Waller County. *See* EXHIBIT A. Denying the location of the transfer station at the proposed site is necessary to end Waller County's discriminatory practice of placing landfills in areas near minority-majority cities. The TCEQ's discriminatory practice of issuing permits for landfills and transfer stations regardless of the racially disparate impacts, and in spite of their allegiance to and requirement of environmental justice investigation and nondiscriminatory action, should also be ended. An investigation by the

U.S. Department of Justice should prohibit the placement of a landfill/transfer station that adversely impacts African-American and Hispanic communities.

VII. Request

Based upon the foregoing, the Complainants request that the U.S. Department of Justice accept this Complaint and conduct an investigation to determine whether Waller County and the TCEQ violated the Civil Rights Act of 1964, Title VI, in allowing the Pintail Landfill and /or transfer station to be located within the ETJ of the City. If a violation is found, and Waller County and the TCEQ are unable to demonstrate a substantial, legitimate justification for their actions and voluntarily implement a less discriminatory alternative that is practicable, Complainants further request that the Department of Justice support a claim of discrimination, requiring Waller County to repeal Ordinance No. 2013-001 and terminate its license agreement with Pintail Landfill, LLC, and further require the TCEQ to cease and desist in the issuance of all permits for the landfill and or transfer station.

Please do not hesitate to contact me, should you require more information.

Sincerely,

OLSON & OLSON, LLP

Art L. Pertille, III
Attorneys for the City of Hempstead, Texas

Enclosures
cc:

Elton Mathis
Waller County District Attorney
645 12th Street
Hempstead, TX 77445

VIA CMRRR

Certified Article Number
7196 9008 9111 6504 7024
SENDERS RECORD

Complaints Division
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

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7196 9008 9111 6504 7031
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Director of the Office of Civil Rights
U.S. Environmental Protection Agency
Mail code 1201A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

VIA CMRRR

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Steven H. Rosenbaum
Chief, Housing & Civil Enforcement Section
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Housing and Civil Enforcement Section, NWB
Washington, D.C. 20530

VIA CMRRR

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7196 9008 9111 6504 7055
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Director of the Office of Enforcement
FHEO, US Department of HUD
451 7th Street, SW, Room 5214
Washington, DC 20410

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Ron Wilson
Director, Office of Civil Rights
Texas Department of Transportation,
125 East 11th Street, Austin, Texas 78701

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Certified Article Number
7196 9008 9111 8317 7147
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Texas Department of Public Safety
Office of Inspector General
13706 Research Blvd., Suite 100
Austin, TX 78750

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