The Office of Vince Ryan
County Attorney

January 15, 2013

VIA Email at: murray.suzanne@epa.gov

Ms. Suzanne Murray
United States Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

Re: San Jacinto Waste Pits Superfund Site

Dear Ms. Murray:

This will follow up on a phone conference with Ms. Pam Phillips at the EPA who has recommended that we send this letter to your attention.

Harris County is forwarding the attached information that it has received in connection with the San Jacinto Waste Site. Affidavits from Chief Fred Ruiz, Game Warden, Texas Parks & Wildlife Game Warden document that seafood is being harvested from the San Jacinto River and destined for commercial sale and ultimate consumption by humans. Additional affidavits from commercial fishermen document their sale of seafood from the Site area to wholesale establishments that sell to restaurants in Houston and Galveston. The Chief Game Warden's affidavit identifies actions that can be taken to educate and warn the public regarding the dangers of consuming and/or harvesting dioxin-impacted seafood.

The affidavits have been the subject of courtroom discussion in Harris County's separate state law penalty action regarding the San Jacinto River, and the Judge in that case has indicated that there is no reason to wait for a verdict to be reached to make the public aware of these issues.[1] The Court requested suggestions from the parties about how these public awareness activities can be done effectively. Harris County coordinated with Texas Parks & Wildlife and other stakeholders and put together the attached list of action items that could be undertaken to increase public awareness.

[1] Copies of the relevant pages of the Court's transcript are attached for your reference.

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1019 Congress, 15th Floor • Houston, Texas 77002 • Phone: 713-755-5101 • Fax: 713-755-8924

Harris County understands that EPA has no objection to Harris County's requesting the parties in the state court case or their designees to perform and/or fund such work as discussed in the transcript and as identified on the action item list. We would appreciate receiving a letter from EPA confirming that it does not have any objection.

Please do not hesitate to contact me if you have any questions or desire additional information.

Sincerely,

VINCE RYAN
Harris County Attorney

Rock W. A. Owens
Managing Attorney
Environment & Infrastructure Group

VR/RWAO/db
Attachments

No. 2011-76724

Harris County, Texas, *Plaintiff,*	§	IN THE DISTRICT COURT OF
	§	
The State of Texas, acting by and through the Texas Commission on Environmental Quality, *a Necessary and Indispensable Party*	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
International Paper Company, McGinnes Industrial Maintenance Corporation, Waste Management, Inc. and Waste Management of Texas, Inc.,	§	
	§	
Defendants	§	295th JUDICIAL DISTRICT

AFFIDAVIT OF FREDERICK G. RUIZ

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS	§	

BEFORE ME, the undersigned authority of the State of Texas, on this day personally appeared Frederick G. Ruiz, known to me to be the person whose name is subscribed to the foregoing affidavit, and who, being by me first duly sworn, on his oath deposed and stated as follows:

1. My name is Frederick G. Ruiz. I am over 18 years of age, of sound mind and am qualified to make this Affidavit. All statements made in this Affidavit are within my personal knowledge, and they are true and correct.

2. I am a Captain, Game Warden, for the Law Enforcement Division of the Texas Parks & Wildlife and work in Harris County, Texas. I am very familiar with the San Jacinto River, including the San Jacinto Waste Pits area. I am in charge of patrolling the San Jacinto River, including the area near the San Jacinto Waste Pits, because the San Jacinto River is one of the Parks & Wildlife Department's enforcement priorities due to public safety issues.

3. Public safety is my number 1 priority and people fishing in the area near the San Jacinto Waste Pits or catching fish or harvesting shellfish impacted from the Waste Pit are subject to a public health threat associated with dioxin from the Waste Pits.

4. From my years of personal experience patrolling the River near the San Jacinto Waste Pits, I have personal knowledge that people come from all over to fish in that area. It is a popular fishing area and people fish in that area almost daily. The biggest users of the River near the Waste Pits are the bank fishermen and it is clear that many of them are subsistence fishing and use the fish they catch to feed their families.

5. It is also evident that some fish are caught or shellfish are harvested from the impacted areas of the San Jacinto River for sale to the public, even though that is prohibited. Recently, I personally detained a Vietnamese fisherman with multiple crates of clams being harvested from the San Jacinto River. It was clear that the seafood being harvested was destined for commercial sale and ultimate consumption by humans.

6. Although my game wardens have increased their patrols on the San Jacinto River to try to stop subsistence fishermen and others from catching and consuming fish impacted by the dioxin, there are only 10 game wardens in Harris County. Due to lack of manpower and funds, it is difficult to adequately police the area to ensure that the public is protected. Dedicated patrols are needed to address this public health threat.

7. In addition, there is a language and cultural barrier that makes it difficult to educate and warn the public not to consume fish from the San Jacinto Waste Pits area. It is clear that public health threats warrant a step up in patrols and enforcement of the fishing bans to ensure the safety of the people of Harris County. However, there is not sufficient funding for the increased man hours, fuel costs, vessels and costs associated with increased patrols.

8. Additional resources are also needed to step up educational efforts and it is my opinion that commercials in Spanish aired on local televisions stations would reach many people at risk who are not currently aware of the danger to themselves and their children by ingestion of seafood from the San Jacinto Waste Pits areas and areas upstream where fish migrate – in some cases, 8 miles away to the Lake Houston Dam or out to Galveston Bay. Outreach to local schools would also educate children, who would communicate the dangers to their parents who may not be native English speakers. Up until now, the handouts made available to the community have only been in English.

9. Multi-language handouts distributed to schools, bait shops, fishing licensing facilities and other public areas where those at risk are likely to see the warnings would help to educate the community. Funds are needed to help the game wardens and other public officials educate the people of Harris County against the public health threat associated with dioxin-contaminated fish and shellfish in the San Jacinto River and other areas where impacted fish have migrated.

10. Based upon my personal experience, people fishing and consuming fish and shellfish from the San Jacinto River have been exposed to dioxin-contaminated fish for many years through their consumption of fish and shellfish from fishing and continue to be exposed to the dioxin-contaminated fish every day.

EXECUTED this 22 day of October, 2012.

Frederick G. Ruiz

SUBSCRIBED AND SWORN TO BEFORE ME on this the 22 day of October, 2012.

Notary Public in and for the State of Texas

CHERYL WOOTEN
Notary Public
STATE OF TEXAS
Commission Exp. 01-26-2015
Notary without Bond

AFFIDAVIT OF CYNDI NGUYEN

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

My name is **CYNDI NGUYEN**, and I am over the age of eighteen and fully competent to make this Affidavit and that the following true and correct facts are within my personal knowledge:

My name is **CYNDI NGUYEN**, I am a fisherman. I make a living and feed my family by fishing on my boat in Galveston Bay and the San Jacinto River. My commercial fishing license number is 142840000353. I have caught fish near the Interstate 10 and sold that seafood to **K & C SEAFOOD**, which is a commercial fish house that sells to many large restaurants in Houston & Galveston. I did not know whether these seafood have Dioxin in them. But I am very concerned because this is seafood that I caught and fed my family. Very recently, I have heard that the fish /crabs/ oyster contain Dioxin.

Further Affiant sayeth not.

CYNDI NGUYEN

SUBSCRIBED AND SWORN TO before me on October 26, 2012.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Karen A. Brooks
Printed Name of Notary

My Commission Expires: 5-8-2014

KAREN A. BROOKS
Notary Public, State of Texas
My Commission Expires
May 08, 2014

AFFIDAVIT OF CUONG KIM

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

My name is **CUONG KIM**, and I am over the age of eighteen and fully competent to make this Affidavit and that the following true and correct facts are within my personal knowledge:

My name is **CUONG KIM**, I am a fisherman. I make a living and feed my family by fishing on my boat in Galveston Bay and the San Jacinto River. My commercial fishing license number is 800701367167. I have caught crabs near the Interstate 10 and sold that seafood to **K & C SEAFOOD**, which is a commercial fish house that sells to many large restaurants in Houston & Galveston. I did not know whether these seafood have Dioxin in them. But I am very concerned because this is seafood that I caught and fed my family. Very recently, I have heard that the fish /crabs/ oyster contain Dioxin.

Further Affiant sayeth not.

Cuong Kim
CUONG KIM

SUBSCRIBED AND SWORN TO before me on October 26, 2012.

Karen A. Brooks
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Karen A. Brooks
Printed Name of Notary

My Commission Expires: 5-8-2014

KAREN A. BROOKS
Notary Public, State of Texas
My Commission Expires
May 08, 2014

AFFIDAVIT OF DUONG V. NGUYEN

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

My name is **DUONG V. NGUYEN**, and I am over the age of eighteen and fully competent to make this Affidavit and that the following true and correct facts are within my personal knowledge:

My name is **DUONG V. NGUYEN**, I am a fisherman. I make a living and feed my family by fishing on my boat in Galveston Bay and the San Jacinto River. My commercial fishing license number is 145740000659. I have caught crabs near the Interstate 10 and sold that seafood to **OAK ISLAND SEAFOOD**, which is a commercial fish house that sells to many large restaurants in Houston & Galveston. I did not know whether these seafood have Dioxin in them. But I am very concerned because this is seafood that I caught and fed my family. Very recently, I have heard that the fish /crabs/ oyster contain Dioxin.

Further Affiant sayeth not.

DUONG V. NGUYEN

SUBSCRIBED AND SWORN TO before me on October 26, 2012.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Karen A. Brooks
Printed Name of Notary

My Commission Expires: 5-8-2014

KAREN A. BROOKS
Notary Public, State of Texas
My Commission Expires
May 08, 2014

AFFIDAVIT OF TANG H. NGUYEN

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

My name is **TANG H. NGUYEN**, and I am over the age of eighteen and fully competent to make this Affidavit and that the following true and correct facts are within my personal knowledge:

My name is **TANG H. NGUYEN**, I am a fisherman. I make a living and feed my family by fishing on my boat in Galveston Bay and the San Jacinto River. My commercial fishing license number is 145840000272. I have caught crabs near the Interstate 10 and sold that seafood to **T & Y SEAFOOD**, which is a commercial fish house that sells to many large restaurants in Houston & Galveston. I did not know whether these seafood have Dioxin in them. But I am very concerned because this is seafood that I caught and fed my family. Very recently, I have heard that the fish /crabs/ oyster contain Dioxin.

Further Affiant sayeth not.

TANG H. NGUYEN

SUBSCRIBED AND SWORN TO before me on October 26, 2012.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Karen A. Brooks
Printed Name of Notary

My Commission Expires: 5-8-2014

KAREN A. BROOKS
Notary Public, State of Texas
My Commission Expires
May 08, 2014

AFFIDAVIT OF DAVID P. PHAN

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

My name is **DAVID P. PHAN**, and I am over the age of eighteen and fully competent to make this Affidavit and that the following true and correct facts are within my personal knowledge:

My name is **DAVID P. PHAN**, I am a fisherman. I make a living and feed my family by fishing on my boat in Galveston Bay and the San Jacinto River. My commercial fishing license Number is 145940000815. I have caught oyster near the Interstate 10 and sold that seafood to **HILLMAN SEAFOOD** which is a commercial fish house that sells to many large restaurants in Houston & Galveston. I did not know whether these seafood have Dioxin in them. But I am very concerned because this is seafood that I caught and fed my family. Very recently, I have heard that the fish /crabs/ oyster contain Dioxin.

Further Affiant sayeth not.

DAVID P. PHAN

SUBSCRIBED AND SWORN TO before me on October 26, 2012.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Karen A. Brooks
Printed Name of Notary

My Commission Expires: 5-8-2014

KAREN A. BROOKS
Notary Public, State of Texas
My Commission Expires
May 08, 2014

AFFIDAVIT OF SANG V. PHAN

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

My name is **SANG V. PHAN**, and I am over the age of eighteen and fully competent to make this Affidavit and that the following true and correct facts are within my personal knowledge:

My name is **SANG V. PHAN**, I am a fisherman. I make a living and feed my family by fishing on my boat in Galveston Bay and the San Jacinto River. My commercial fishing license Number is 146060014059 / 146060014060. I have caught oyster near the Interstate 10 and sold that seafood to **HILLMAN SEAFOOD**. which is a commercial fish house that sells to many large restaurants in Houston & Galveston. I did not know whether these seafood have Dioxin in them. But I am very concerned because this is seafood that I caught and fed my family. Very recently, I have heard that the fish /crabs/ oyster contain Dioxin.

Further Affiant sayeth not.

SANG V. PHAN

SUBSCRIBED AND SWORN TO before me on October 26, 2012.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Karen A. Brooks
Printed Name of Notary

My Commission Expires: 5-8-2014

KAREN A. BROOKS
Notary Public, State of Texas
My Commission Expires
May 08, 2014

1 REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME
2 TRIAL COURT CAUSE NO. 2011-76724

3

4 HARRIS COUNTY, TEXAS, * IN THE DISTRICT COURT OF
Plaintiff *
5 *
THE STATE OF TEXAS, *
6 *Acting by and through the* *
TEXAS COMMISSION ON *
7 ENVIRONMENTAL QUALITY, A *
Necessary and Indispensable *
8 *Party* *
*
9 VS. * HARRIS COUNTY, T E X A S
*
10 INTERNATIONAL PAPER COMPANY; *
MCGINNES INDUSTRIAL *
11 MAINTENANCE CORP.; WASTE *
MANAGEMENT, INC.; AND WASTE *
12 MANAGEMENT OF TEXAS, INC., *
Defendants * 295TH JUDICIAL DISTRICT
13

14
REPORTER'S RECORD
15
STATUS CONFERENCE
16
DECEMBER 17, 2012
17

18
On the 17th day of December, 2012, a Hearing on
19 Status Conference came on to be heard in the
above-entitled and -numbered cause; and the following
20 proceedings were had before the Honorable Caroline
Baker, Judge Presiding, held in Houston, Harris County,
21 Texas:

22 Proceedings reported by computerized stenotype
machine; Reporter's Record produced by computer-assisted
23 transcription.

24

25

1 you. And I apologize for calling in 20 minutes late. I
2 have been trying to call but --
3 THE COURT: No worries. I just feel bad
4 that I can't bring you up to speed as to everything
5 we've discussed right now. But we are on the record and
6 there are a lot of people in the courtroom and I know
7 somebody will bring you up to date on all the things
8 we've addressed.
9 MS. SMITH (VIA TELEPHONE): I am sure they
10 will. Thank you very much.
11 THE COURT: Mr. Ballard, I think you were
12 going to say something? Was there any question of
13 anything else we need to address initially before we
14 start talking about some of the logistics?
15 MR. BALLARD: No, Your Honor. We filed an
16 answer and special exceptions in the Harpster case this
17 morning, just to get things moving. We didn't need to
18 do it until the end of the month, but we did it just to
19 keep things moving. And we filed special exceptions,
20 but, again, we can take those up I think maybe at a
21 later hearing in January and primarily devote the
22 January 3rd to *Lone Pine*.
23 THE COURT: Okay. One of the things that I
24 wanted to address was the issue raised by Mr. Wotring
25 and Ms. Baker in the last hearing having to do with

1 public awareness and the defendants response that
2 they're concerned about public awareness, too, while
3 these cases are pending; and I think it is an issue that
4 we should be able to address as part of the planning on
5 how these cases proceed.
6 In other words, it seems to me that there is
7 no reason that any of the three courts need to wait for
8 a verdict one way or another to make the public aware of
9 what the current conditions are in the San Jacinto
10 River. While appreciating the financial aspects of
11 that, what that costs, it seems to me that there ought
12 to be a way for the parties to reach some sort of
13 agreement, without anybody using any of this for
14 purposes of trial against each other or publicizing it
15 in a way that's not about the general concern for the
16 public good, in other words, not using it as a weapon or
17 something else against any party in the case.
18 It appears to the court from having listened
19 to you-all last time that it is everybody's concern that
20 that be taken care of and not be a basis for any of the
21 actions that are taken or not taken in the courtroom in
22 developing these cases and trying them. So I would like
23 to have suggestions from the parties, and this may be
24 the day to do that, it may not, on how that can be done
25 effectively as a group.

1 MR. BALLARD: Well, Your Honor, as you heard
2 last time, we're already doing many things, pretty much
3 everything we can think about doing, including community
4 outreach with the pamphlets and the first fish
5 advisories, the notices on the docks, and then
6 specifically the fencing around the property, the buoys,
7 the notices, the signs in three different languages.
8 We would be willing, our clients would be
9 willing, and I think I speak for all the defendants, to
10 meet with Harris County and ask them what else they want
11 us to do; and we will consider doing that as well. We
12 haven't gotten a request to do anything more. I think
13 we're doing everything we can think of; but we would
14 certainly sit down and have that meeting and do whatever
15 they requested on a reasonable basis, for sure.
16 THE COURT: Mr. Wotring?
17 Thank you, Mr. Ballard.
18 MR. WOTRING: I think -- since the last
19 hearing that was on the 20th, I think we all turned our
20 attention to the oral arguments, which were on the 27th.
21 I know on our end I got involved. So that took away
22 some of the focus on the immediacy of meeting and
23 talking about those things.
24 Without getting into who has done what,
25 because I don't think that would be productive --

San Jacinto Waste Pits
Draft Public Outreach and Awareness Action Items
For Harris County Residents

In response to recent evidence showing that Harris County residents continue to fish and consume seafood from the San Jacinto Waste Pits area -- and that some of the seafood being harvested from the impacted areas is being sold to restaurants and into the human food chain for public consumption -- the Court has requested suggestions from the parties about how public awareness of these health threats can be actively addressed at the present time, so that increased public awareness is not dependent on the completion of the litigation brought by the County.

To help increase awareness and educate Harris County residents about the continued public safety concerns being identified with consuming dioxin-contaminated seafood associated with the San Jacinto River Waste Pits, private funding for the following increased public awareness activities could be applied to the following public awareness activities.

1. **Television Commercials**.

   a. **Most Americans get their news from Television**. TV is a powerful medium because it combines visual and audio media. TV allows the message to be conveyed in a short, powerful visual statement that can be repeated over and over and will be remembered.

   b. **Local television reaches large amounts of people**. Television programs are widely regarded as one of the most effective ways to promote general awareness through local media. A one-minute program or commercial televised on the risks of dioxin-poisoning and consuming contaminated fish from the San Jacinto Waste Pits area may be the quickest way to increase awareness of Harris County residents likely to be affected by consumption of dioxin-contaminated seafood.

   c. **Multi-lingual television commercials reach an even wider or under-represented population**. Commercials could also be produced to air in Spanish, Vietnamese and other languages on local television stations to reach people at risk who are not currently aware of the danger of ingestion of seafood from the San Jacinto Waste Pits areas and areas upstream where fish migrate.

2. **Short films for Education**.

   a. **Short films**. Short films on the dangers of dioxin poisoning and how dioxin in seafood can find its way to the human food chain can be widely circulated to promote a consistent message in a cost-effective manner. Like television, produced short films combine visual and audio imprints that can reach a wide segment of an affected population.

   b. **Screen short films in classroom/auditoriums**. For example, showing short films on San Jacinto River and the dangers of dioxin in school classrooms, auditoriums or other community meeting places/spaces can send a visual, clear

message about the dangers of consuming fish from the San Jacinto Waste Pits area. Visualization of how dioxin can be ingested into the human body and potential health effects associated with dioxin consumption can also strengthen the message to the public.

c. **Web Circulation of short films**. Short films can also be posted on web media such as YouTube and social media such as Facebook, to quickly promote and educate a large segment of an affected population.

3. **Radio Broadcast Spots**. One-minute radio spots explaining the public health risks associated with fishing and consuming fish from the San Jacinto Waste Pits area and providing information and contact numbers to the public is another way to effectively reach a large amount of people.

   a. **Commuting Public**. Radio time could be purchased during morning and evening rush hours to reach a large segment of the commuting public.

   b. **Educational Radio**. Local college radio stations or high school radio programming could also broadcast radio spots to provide education in local schools.

   c. **Public Service Announcements**. Radio broadcasts may also be used to circulate public service announcements intended to inform or educate the public. Pre-recorded public service announcements can be used to reinforce to the listening public the dangers of fishing or consuming fish from the San Jacinto Waste Pits area.

   d. **Provide contact numbers**. Radio spots could provide contact information/numbers for listeners to call with questions or to obtain more information. See reference to hotline below.

4. **Community Outreach to local schools**.

   a. **Focused school outreach programs**. Outreach programs could target local schools to send speakers/officials to visit local schools to educate children who can communicate the dangers of fishing or consuming fish from the San Jacinto Waste Pits to their parents who may not be native English speakers. Programs can be coordinated with, and enlist the help of, school principals and teachers.

   b. **Age appropriate messages for children**. Programs could be geared to educate children about site risks in a manner appropriate for their age groups.

   c. **Educating children can educate adults**. Short film presentations with questions and answer periods made to a large school assembly or to specific classes can send a message home with children. Educating children can be a way of educating adults, since children talk to their parents. Also, information brought

home from school may carry a level of credibility that is higher than other forms of communication.

5. **Local Newspaper ads.**

   a. **Reach local populations**. Ads in local newspapers can communicate an important announcement to many people in affected local or target communities. To that end, public notices that are eye-catching and located in main sections of the paper (not placed with legal notices) could be printed weekly or several times a month. Local papers may carry more credibility to affected residents than more widely-circulated publications.

   b. **Repeated publication to enforce message**. Public notices regarding the dangers of dioxin and how dioxin in seafood can find its way into the human food chain could be run repeatedly and republished several times a month to increase the likelihood of reaching the target audience.

6. **Hotline**.

   a. **Information Resource**. Establishing and publicizing a toll-free hotline number for the public to call to obtain more information regarding fishing or consuming fish from the San Jacinto River Waste Pits area could facilitate public education. In addition to serving the function of raising public awareness, information about site history may also be identified. While it is currently reported that there is little information about the site history, long-time residents with knowledge about historical site practices, recreational users at the site and practices of locals might be more comfortable communicating with local governments than perceived "outsiders" and additional information about historical site issues could be identified.

   b. **Encourage Reporting**. A hotline could encourage people to step forward and report fishing or harvesting of shellfish from banned or prohibited areas, which could protect the public and provide a method of self-policing to the local community.

7. **Increased distribution and targeting of handouts**.

   a. **Multi-language handouts**. Increase distribution of multi-language handouts for distribution to schools, churches, bait shops, establishments that sell fishing license and other public areas where those at risk are likely to see the warnings to help educate the community.

   b. **Involve local businesses**. Target local businesses, grocery stores, churches and other public establishments and businesses near the Site and provide them with information to distribute in the course of the public's patronage of their businesses.

Draft Public Outreach and Awareness Action Items

8. **Increase Game Patrols/Direct Fishermen to Alternative Fishing Areas**.

   a. **Donations to Texas Parks & Wildlife game wardens**. Additional funding could pay for increased patrols of the San Jacinto River Waste Pits area, and cover costs associated with increased man hours, fuel costs, and additional vessels.

   b. **Provide solutions for alternative fishing areas**. Identify and enhance areas that will provide the public with an alternative locale to fish.

9. **Billboards**. Billboards with information regarding dangers associated with fishing and consuming fish from the San Jacinto Waste Pits area prominently erected on I-10 East and 610 East Loop North and Southbound could also communicate information and facilitate public awareness of the public safety issues to a large segment of the public.