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Austin's Least-Loved Landfill May Be Poised to Grow Again

The other ACL: The Austin Community Landfill

BY LINDSAY STAFFORD MADER, JANUARY 18, 2019, NEWS

Late last year, four people showed up at the Travis County Commissioners Court to tell their elected officials about what it's like to live near one of the state's most controversial dumps. The Austin Community Landfill actually lies next to its namesake city, which, along with the county, likes to think of itself as progressively environmental. But neighbors and advocates are worried that local government's previous resistance to the site is waning.

At the meeting, one woman said she had started her morning filing an odor complaint with the Texas Commission on Environmental Quality after being "overwhelmed by the smell of garbage." Another woman, Colleen Mikeska, with her toddler son squirming on her lap, spoke of increasingly frequent, "awful," and "disgusting" smells outside and *inside* her home, something that has embarrassed her when hosting birthday and holiday parties. She then explained how she only recently learned of the significant amount of industrial waste that was buried at the site in the 1970s, when local and state landfill regulations were alarmingly weak. "That's incredibly upsetting to me," Mikeska said. "I have a family and we live there and we deserve clean air and water. There's no way that that is not negatively affecting our health."

Residents of this part of Northeast Austin and Travis County have long known the ACL's impacts and have fought to keep them from worsening. But in the fall of 2018, neighbors in Colonial Place, Chimney Hills, Walnut Place, Pioneer Crossing East, and other neighborhoods in the area learned that the ACL's owner, global corporation Waste Management, is considering expanding the facility. (This reporter lived in the area during the reporting of this story.) They recently joined with Texas Campaign for the Environment to push back against those plans, as well as a surprising move by the city of Austin to fast-track a controversial new tool they say will send more trash to the ACL and make it more likely to grow.

Risky Business

The ACL sits just north of U.S. Highway 290 in a diverse, middle-class area of town next to two other, now-closed landfills – Sunset Farms, recently purchased from BFI by Republic Services, and the landfill operated by Travis County from 1968 to 1982. The ACL site first opened in 1970, a time of lax oversight when the state had no landfill permitting process, and accepted industrial and chemical waste, including acids, caustics, spent solvents, hydrocarbons, and contaminated industrial process water. Though specific contents are unknown, it's very likely many would be considered hazardous. On a 10-acre plot now known as the Industrial Waste Unit, these materials were dumped in unlined pits in the ground and in at least 21,000 barrels (perhaps as many as 50,000), which were

buried under a few feet of soil. By 1982, a staffer at the U.S. Environmental Protection Agency dubbed the ACL "Austin's Love Canal," after the infamous landfill near Niagara Falls that leached chemical pollution into people's homes, leading to evacuations and a declared national emergency. Previous studies by hydrogeologist Robert Kier, who has done work for the neighbors and WM's competitor Texas Disposal Systems, concluded that the ACL contains at least 19,000 tons of industrial waste, and perhaps as much as 80,000 tons – four times the amount at Love Canal.

The thick clay Blackland Prairie soils typically found east of Interstate 35 have lower permeability and pose less risk for groundwater contamination than the rocky Hill Country soils. That's one reason, among obvious others, that you find no active dumps in West Austin. But the types of industrial wastes at the ACL could potentially desiccate those clay minerals, making the soils more permeable, and the site's topography sends significant runoff into tributaries of Walnut Creek, which flows into the Colorado River, and Gilleland Creek, which feeds into popular East Austin fishing spot Lake Walter E. Long. (The ACL does not impact city of Austin drinking water, as this currently comes from the Highland Lakes. The city of Manor, about six miles away, gets its drinking water from local groundwater wells.) As early as 1972, the old Texas Water Quality Board voiced concerns about surface and groundwater contamination and ordered the IWU site be closed, though several years later, the ACL began accepting other kinds of industrial wastes, which were buried in unknown locations.

Waste Management purchased the ACL in 1981 and has since expanded it several times. In 1998, hoping to win a city of Austin waste disposal contract, WM prepared a multimillion-dollar plan to remediate the IWU by removing and reburying nonhazardous materials in a newer, lined cell, and by transporting hazardous wastes to a facility licensed to handle them. This was approved by state regulators despite concerns regarding the risk of thousands of tons of potentially hazardous waste entering Walnut Creek and the Colorado River if something went wrong. The community asked the EPA to list the IWU as a Superfund site and take charge of its cleanup; this did not happen, and WM lost its bid for the city contract and has yet to carry out any IWU remediation plans.

Smells, Buzzards, Toxic Waste

Since 2000, TCEQ has received 324 "complaint incidences" concerning the ACL, from 760 people. (An "incidence" can include multiple complaints made by the same person, around the same time, and about similar things.) Due to a lag in data entry, TCEQ says, these totals might not reflect recent complaints, adding that it's currently investigating a number of odor complaints. The agency says it does not compile information comparing these numbers with those at other facilities in Texas.

Jesse Koay, who has lived in Colonial Place since 2011, didn't know the landfill existed when he bought his home, and didn't really mind once he found out. "Then came the smell," he says. "On bad days, I can't even bear to breathe outside." Koay can smell the landfill around five to seven times a month, and he sometimes has to wear a mask when doing yardwork or stop altogether if his asthma is irritated. Like Mikeska, he and his wife have been embarrassed when hosting friends. On bad days, the smell creeps inside their home. They worry about going on walks with their new baby, and have been woken up by buzzards roosting on their roof.

After learning from TCE about the industrial waste, Koay and his wife researched Love Canal and learned of that community's high rates of premature birth. In 2018, his wife, after no warning signs or risk factors, went into labor more than two months early, and their daughter spent two months in the NICU. While they don't necessarily think it

was due to the landfill, "it is a possibility we have to live with in the back of our minds as we think about growing our family," he said.

The environmental group took interest in the ACL around 2001, when its canvassers encountered neighbors expressing desperation about how the odors impacted their lives – a situation reflected in numerous TCEQ complaints from that period, and a petition from more than 100 neighbors. In addition to the health and environmental risks it believes are currently posed by the landfill and IWU, TCE is concerned that the city could be liable for future remediations and is not fully committed to its adopted "zero waste goals."

The group's objectives are to prevent any expansion of the ACL, so that it ends its life as expected in about eight years, and to ensure the IWU gets a thorough and proper cleanup. "That site is in need of remediation, and we can't rely upon Waste Management to do that themselves," says TCE Program Director Andrew Dobbs. "We need to have independent scientific analysis and public input, and the Superfund process is designed to do that."

TCE receives contributions from WM's rival Texas Disposal Systems, but the vast majority of its income is from small-dollar donations, and Dobbs says the facts should be judged on their own merits. "[Neighbors] don't need to look at our balance sheet to know that what we're saying is true, because it coincides with their lived experience."

A Million Moving Parts

On a mild winter morning, I head to the ACL site, where hundreds of hauling trucks deposit more than 3,000 tons of trash each day. The ACL accepts waste from Austin's multifamily residential dumpsters, businesses, restaurants, and commercial construction sites, as well as residential trash from smaller communities. (City of Austin single-family residential trash goes to TDS.) Steve Jacobs, WM's director of disposal operations in Texas and Oklahoma, gives me a tour of the site in his truck.

As we drive around the landscape of grass-covered hills, Jacobs explains that these contain many layers of trash and dirt. To prevent leachate – the juice produced when waste encounters water – from entering the groundwater, some of the ACL's newer units have bottom liners made of re-compacted clay and a high-density polyethylene (other units have older liners). Jacobs points out a pipe protruding from the ground, part of the extraction system that pulls methane and other gases (some of which stink) out of buried waste to be burned off at a flare, or used to generate electricity. There's also a system that pumps leachate to a pond for aeration in a fountain to mitigate odors. In the summer, the leachate evaporates; in the winter, WM hauls it off-site for disposal.

As we drive a little farther, a massive mountain of trash and dirt appears, which neighbors say is taller than Mount Bonnell. From near the top, Jacobs points out Downtown, the surrounding neighborhoods, and encroaching development, as well as the closed Travis County landfill and IWU. Closer to Springdale Road, we tour the active unit where haulers are dumping fresh garbage. Hundreds of birds (including seagulls) swarm above as putrid odors invade the truck. An Amazon box lies in the sun, a reminder that some still throw recyclables in the trash. "Just remember," Jacobs says, "we didn't invent it – we just pick it up."

When our *Chronicle* photographer asks if we can see the expansion area, Jacobs curtly responds, "What expansion?" and a moment of silent tension hangs in the truck. He then explains that, yes, WM is considering expanding the landfill but hasn't spent "any money whatsoever" developing an expansion application, which he

says would take about one year to prepare and two to five years to go through the TCEQ and public-input process. "We're still in the hypothetical phase," Jacobs says. "If you ask me in six months and things have changed, I would tell you, 'Yes, we're in the process.' Right now we're not. We're looking at possibilities, but there's a million little moving parts right now."

Later on in his office, Jacobs lays out the ACL's various expansion options. While WM did look into combining its landfill with Sunset Farms (and purchased Republic's Austin trucking assets), he describes that strategy as an "engineering nightmare." WM has also looked at adjacent land, but developers are planning homes extremely close by, creating more headaches for the company; meanwhile, an agreement with surrounding homeowners limits the facility's height. "Now, somebody may decide down the road to go back to the neighborhood and say, 'Hey, can we go higher?' But it's a written agreement and it's not going to be violated."

Jacobs says WM has also looked at building over the Travis County landfill and at digging up the industrial waste. The firm can't pile trash on top of the IWU, because "if you look at it as a sponge and you start squeezing it – then you're going to have a problem." (WM's own consultants found in 2000 that some garbage has already been placed on top of it.) "There's a significant amount of money to remove it and the question is, does it make sense?" In the meantime, Jacobs says, WM upgraded the top cap on the area in 2002 to deflect rain, and installed horizontal groundwater wells around the perimeter to monitor any chemical migration, "and there's no indication that there's any movement of any waste coming out of that." He adds that WM is not concerned about liability from the IWU and that consultants have concluded the unit presents no risk to human health or the environment. "It's our responsibility and nobody's shirking that responsibility. We just don't see any reason to elevate anything above where it is right now, which is monitor and maintain."

Kier, the hydrogeologist who has extensively studied the ACL, criticized the WM consultants' findings in a 2009 testimony to the State Office of Administrative Hearings, saying they were based on questionable assumptions and that the team who wrote the report did not actually conduct the investigation. He also said the IWU monitoring wells are placed so as to exclude areas where industrial waste was dumped, and noted that in 1995, when several wells showed evidence of groundwater contamination, "WM requested and TCEQ allowed" the company to stop monitoring and later eliminate those wells. WM's own investigation found concentrations of carcinogens in some testing samples; Kier further testified that some evidence has shown contaminated groundwater moving toward Walnut Creek and Lake Walter E. Long as well as outside the ACL.

The city's own consulting report in 2009 found no evidence of significant groundwater contamination at that time, but it also noted that chemical solvents could migrate into groundwater in the future and that surface water, particularly Walnut Creek and its tributaries, could be contaminated by the IWU, which the team concluded "poses a substantial environmental risk and potential future liability to the owners and users of the site." It recommended removing and disposing of the industrial waste.

The monitoring described by Jacobs is done voluntarily by WM; TCEQ says the ACL's facility permit from the agency doesn't require it. Both TCEQ and the city's Watershed Protection Department receive and review WM's IWU reports and say they are satisfied with the location of the wells and the data.

Adequate Oversight?

When TCEQ receives complaints, it dispatches investigators who smell for odors off-site and sometimes check the ACL itself for odor sources and rule violations. But neighbors say this process achieves little. Koay says that when he reports odors, inspectors come out a few days later, when the smell is not as bad, "and then close out the complaint." Many Nextdoor posts describe similar frustrations, but neighbors say they'll keep reporting to TCEQ and hoping for enforcement action, such as that taken in the mid-2000s. However, TCEQ has always approved WM's past permits to expand, despite heavy community pushback.

The owner of the nearby Barr Mansion told the Commissioners Court that WM indicated it had been discussing an ACL expansion with Travis County Judge Sarah Eckhardt for a year. When asked to confirm this, or her position on expansion, Eckhardt declined to comment. The county's director of Natural Resources and Environmental Quality, Jon White, told the *Chronicle* that in 2017 WM approached the county with a "very preliminary and speculative idea" of expanding onto the old county landfill; he passed the information along to Eckhardt and Commissioner Jeff Travillion, whose Precinct 1 is home to the landfills. The full court would have to decide whether Travis County would support an ACL expansion.

The ACL is only in Austin's extraterritorial jurisdiction, but the city is a major customer for most area landfills and as such has power to influence their operations. For years, the appointed Zero Waste Advisory Commission has been willing to withhold its support for contracts coming to Council because of concerns about the ACL. A policy working group recommended that Austin Resource Recovery create an evaluation matrix for landfills that handle waste the city controls, including criteria on a facility's impact on communities of color and social equity, and its existing levels of hazardous materials, and said the matrix "should come before the Council for approval before implementation."

Ultimately, ARR produced a matrix that included none of these items, and ZWAC voted to reject it. Then, in a turn of events that has floored almost everybody involved, City Manager Spencer Cronk decided that ARR would immediately begin using the matrix, which WM has called "relatively fair," without Council approval. "It was actually one of the most confounding decisions that I've been privy to during my three years on the commission," says ZWAC Commissioner Josh Blaine. "It was like, 'Okay, the commission resoundingly rejected what we did, so the conclusion is that Council won't be able to approve it, so we're just going to bypass the whole thing and take all of this into our own hands?'" Cronk said via email that he had the authority to move the process forward; City Council will still have to approve most individual waste contracts.

ARR Assistant Director Richard McHale says his staff didn't include the suggested criteria to consider TCEQ complaints, since those could be distorted by an outside group organizing neighbors, and that one person can file many complaints. "It's not an objective measurement," McHale says, "and we didn't think it was one that was worth putting in." (Again, TCEQ combines multiple complaints from a single person into one "incidence.") McHale says ARR's matrix does consider TCEQ *violations* (the ACL has none currently) but didn't call out industrial or hazardous waste because "all [municipal] landfills contain some sort of hazardous waste," and "plenty of studies" have found that leachate from municipal solid waste and hazardous waste is "identically the same." TCEQ responded that generally, landfill leachate "is not classified as hazardous."

As for a facility's impact on communities of color (other than the impact of its hiring practices), McHale says that landfills have no control over who moves in next to them and thus shouldn't be held accountable. To that point, the

city of Austin and Travis County are in the approval process for a new subdivision, Springdale Park, that would be directly adjacent to the group of landfills. Koay, whose neighborhood lies in the shadow of the trash mountain, is already alarmed at the amount of new housing being built right down the street. "There is going to be a huge, growing number of people impacted by the landfill if it were to continue operation or even expand," he says. "Austin needs to do the right thing."

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