

# Jury verdict delivers blow to Waller Co. landfill plan

By Jayme Fraser | December 18, 2014 | Updated: December 18, 2014 4:09pm

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## Where would it be built?

The proposed landfill would be constructed in an area just north of Hempstead, within the county's borders. Hempstead is located about 60 miles northwest of downtown Houston.



A jury on Thursday found that Waller County violated transparency laws in approving a controversial proposal for a landfill just outside of the city of Hempstead.

The verdict represents a victory for opponents, but does not end the legal battle over the proposal, which opponents worry will pollute an aquifer that serves the Houston area.

The 12-member jury sided with the city of Hempstead and a citizens group, which had challenged the county's February 2013 decision to host the landfill.

Members of Citizens Against the Landfill in Hempstead gathered to pray in the courtroom after the jury's verdict.

Another element of the case - to be decided by the judge, not the jury, on Jan. 21 - is whether the county had authority to approve the project given that 106 acres falls within Hempstead's extraterritorial jurisdiction, a bubble around it that could be added to within the city limits once the population increases.

The developer has also maintained that it has the necessary permits to proceed, regardless of the verdict.

In closing arguments of the contentious trial, attorneys for the city of Hempstead and the citizens group cast county commissioners as unethical politicians while the defense argued they were heroic tacticians like Sam Houston.

Residents of Hempstead, a rural community located about an hour northwest of downtown Houston, have been in open revolt over the proposed landfill, which would be visible from U.S. 290. Pintail Landfill, a subsidiary of Georgia-based **Green Group Holdings**, contends that it has complied with all state and local requirements for environmental protections, a position supported by the **Texas Commission on Environmental Quality**, which approved a draft permit for the project in 2012.

Although many in Waller County - including some of the commissioners named as defendants - do not want the landfill, the case before jurors was about the process.

"This case is not about whether a landfill will come to Waller County," said **Blayne Peña**, attorney for the citizens group, in her closing argument. "Transparency and open government - that's what this case is about."

The plaintiffs told the jury Wednesday that when Glenn Beckendorff was Waller County judge, he and **Commissioners Stan Kitzman** and Frank Pokluda violated Texas' open government laws by secretly colluding with Pintail representatives, months before anyone else in the community knew about the proposal, to bring the landfill to Waller County. As she spoke, she clicked through **PowerPoint** slides in a tour of the evidence: phone records, emails and calendars.

"Say, 'Yes' to open government and that the sun shines in Waller County," she said.

Two alternate jurors who were dismissed before opening arguments, speaking on the condition that they not be identified, said the verdict would have been easy for them: County leaders violated transparency laws.

**James Allison**, attorney for Waller County, contended that county leaders followed state law and only held closed meetings to discuss legal aspects of the case, which they are permitted to do. In fact, he detailed numerous occasions when they delayed decisions to allow for more public comment.

But, Allison argued, it all came down to Pintail Landfill being smarter and quicker. The company filed its application to the state before the city could adopt an ordinance to block the project. That's why the one they passed in 2011 is unenforceable, Allison said.

He described the county judge's decision to draft a hosting agreement, which would set terms for the project, and to create a second ordinance to ban landfills anywhere else in the county as "Plan B." He compared the judge to Sam Houston, who declined to reinforce the Alamo as the **Mexican Army** advanced.

"The war wasn't won at the Alamo," he said, suggesting opponents of the landfill should be taking their fight to the state, not to their local leaders.

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Nonetheless, he lauded the spirit of landfill opponents.

"I don't blame the people that want their homes protected," he said. "Like **Davy Crockett**, that's who I'd want fighting by my side at the Alamo."