

MSD 22

MSB 18

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Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 15, 2006

Mr. Greg Rogers, Attorney
Guida, Slavich & Flores, P.C.
750 North St. Paul Street, Suite 200
Dallas, Texas 75201

Re: Certification of Municipal Setting Designation (MSD) Application for DTX Associates Property, 6612 Brentwood Stair Road, Fort Worth, TX

Dear Mr. Rogers:

Enclosed is the MSD Certification for your site. You can use this certification as the basis to avail of the groundwater assessment and remediation flexibility offered in accordance with Texas Health and Safety Code §361.808, consistent with the site-specific circumstances.

If I can be of any further assistance, please contact me at 512/239-5243 or via e-mail at dschlema@tceq.state.tx.us.

Sincerely,

A handwritten signature in cursive script that reads "Danielle Schleman".

Danielle Schleman, Project Manager
Team 3, Environmental Cleanup Section I
Remediation Division

Enclosures

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 18

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for the DTX Associates Property, 6612 Brentwood Stair Road, Fort Worth, the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B" provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this 28 day of November, 2006

Handwritten signature of Glenn Shankle in black ink.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

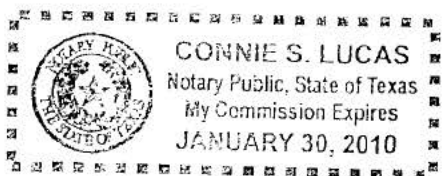
STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 28th day of November, 2006, personally appeared Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 28th day of November, 2006.

Handwritten signature of Connie S. Lucas in black ink.

Notary Public in and for the State of Texas



Notary without Bond

EXHIBIT A

Being 40,010 square feet or 0.9185 acre tract of land being all of Lot 3-R of McClellan Subdivision, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat thereof recorded in volume 388-45, Page 59, Plat Records of Tarrant County, Texas, and being more particularly described as follows:

BEGINNING at a found 60d nail for a corner in the west line of Handley Drive (a 60 foot right of way), said point being S 00°03'00" E, a distance of 133.30 feet from a found 60d nail at the intersection of the west line of Handley Drive with the south line of Brentwood Stair Road (an 80 foot right of way), said point being common east corner of said Lot 3-R and Lot 4-R of the said McClellan Subdivision, said point the beginning of a tangent curve to the right with a central angle of 13°41'14", a radius of 447.40, a chord bearing of S 06°47' 37" W and a chord distance of 106.62 feet;

THENCE, Southwesterly, with the west line of Handley Drive and along said curve, an arc distance of 106.88 feet to a found 5/8 inch iron rod for a corner at the common east corner of said Lot 3-R and Lot 5-R of the said McClellan subdivision;

THENCE, N 89°22'00" W, departing the west line of Handley Drive and with the common line of said Lots 3-R and 5-R, a distance of 230.44 feet to a found 5/8 inch rod for a corner, said point being the common west corner of said Lots 3-R and 5-R and on the east line of Lot 1-R of the said McClellan Subdivision;

THENCE, N 00°45'00" E, with the common line of said Lots 1-R and 3-R, passing at a distance of 35.52 feet the common east corner of said Lot 1-R and Lot 2-R of the said McClellan Subdivision, continuing in all a distance of 239.30 feet to a found 5/8 inch iron rod for a corner in the south line of Brentwood Stair Road, said point being the common north corner of said Lots 2-R and 3-R;

THENCE, S 89°22'00" E, with the south line of Brentwood Stair Road, a distance of 109.80 feet to a set PK nail for a corner, said point being the common north corner of said Lot 3-R and said Lot 4-R;

THENCE, S 00°03'00" E, departing the south line of Brentwood Stair Road, a distance of 133.3 feet to a set 1/2 inch iron rod for a corner, said point being the southwest corner of said Lot 4-R;

THENCE, S 89°22'00" E, continuing with the said common line, a distance of 130 feet to the point of Beginning.



CITY OF FORT WORTH



0 10 20 40
GRAPHIC SCALE IN FEET
SCALE 1" = 20'

"Brentwood Easement" as referred to in Amendment to Easement and Restraints Covenants Agreement as recorded in Volume 4882, Page 221, and in Volume 8375, Page 1651, Deed Records, Tarrant County, Texas.

Lot 2-A-R
McClellan Subd.
Vol. 388-48, Pg. 555.
D.A.T.C. TX.

Lot 4-R
McClellan Subd.
Vol. 388-45, Pg. 59.
D.A.T.C. TX.

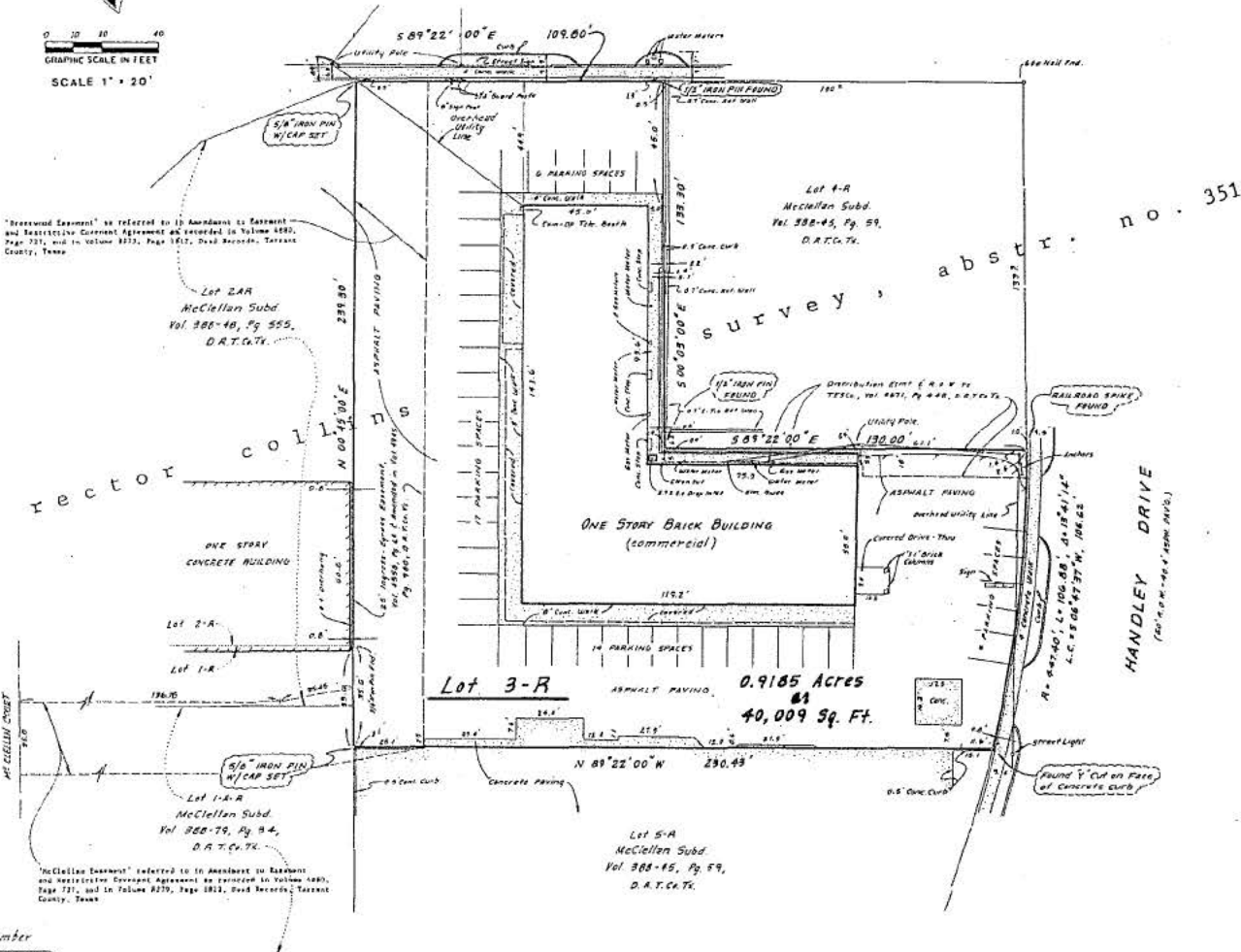
Lot 2-A
McClellan Subd.
Vol. 388-79, Pg. 94.
D.A.T.C. TX.

Lot 1-A-R
McClellan Subd.
Vol. 388-79, Pg. 94.
D.A.T.C. TX.

"McClellan Easement" referred to in Amendment to Easement and Restraints Covenants Agreement as recorded in Volume 4882, Page 221, and in Volume 8375, Page 1651, Deed Records, Tarrant County, Texas.

Lot 5-A
McClellan Subd.
Vol. 388-45, Pg. 59.
D.A.T.C. TX.

BRENTWOOD - STAIR ROAD
(AC' R.O.W. - Variable Width Asph. Pav'g.)



LAND TITLE SURVEY

of

LOT 3-R, OF MC CLELLAN SUBDIVISION,

being a revision of Lots 1, 2, a portion of Lot 3, and a portion of Tract "A", all in the Mc Clellan Subdivision, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-45, page 59, Plat Records, Tarrant County, Texas.

GENERAL NOTES

- All buried utilities, cables, conduits, or other sub-surface features may not be shown on this map of survey. Extreme caution should be exercised and all utility companies, as well as municipal inspectors, should be notified prior to any digging, drilling, or excavation on this site. This is not a utility map.
- According to the Flood Insurance Rate Map for the City of Fort Worth, Commission's Panel No. 41228A 0085 B, effective date 11-18-88, no part of the subject property described herein appears to be included in Zones A, A-1, A-2, A-3, A-4, A-5, A-9, or A-30 as defined on said map.
- This survey was prepared in association with Commonwealth Land Title Company's Committee for Title Insurance C. F. No. 2487208, issued under April 28, 1988. The easements, rights-of-way or other exceptions noted herein are according to Schedule A District or as plotted on one of several other referred to herein. The surveyor has not abstracted the property.
- Unless labeled otherwise, the property corners marked or called as herein as "set" are 3/4" diameter by 16" long iron pins with a yellow plastic cap set also marked "Surveyor's Association".
- The besting source for this map of survey is recorded plat of Lot 3-R, McClellan Subdivision, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-45, page 59, Deed Records, Tarrant County, Texas.

This Survey is made for the benefit of Michael J. Ketter, Trustee, of the Trustee and Commonwealth Land Title Company, and their respective successors and assigns.

The undersigned hereby certifies to the above facts, as of the date and to each below, that:

(a) This Survey (i) was made on the ground as per the field notes shown herein and correctly shows the boundary lines and dimensions and the area of the land indicated herein (the "property"); (ii) correctly shows the location of all utility lines, visible structures and other visible improvements situated on the property; (iii) correctly shows the distance on the nearest intersecting street, and the point of reference from which the property is measured in the record description; (iv) correctly shows the location and dimensions of all alleys, streets, roads, rights-of-way, easements and other matters of record affecting the property, of which the description in such right-of-way, easement and other matters (with instrument volume and page numbers as indicated), and (v) correctly states the nature of any liens existing on the property.

(b) Except as shown, there are no claims, easements or rights-of-way across the property or the other easements or rights-of-way of which the underground has been discovered, no party walls or boundaries that conflict, no visible structures or other visible improvements, no other buildings, visible structures or other visible improvements, and no visible encroachments on the property by adjoining parties.

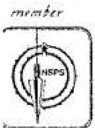
(c) That the streets abutting the property have been dedicated to governmental authorities having jurisdiction.

By: *Michael J. Wilson*
Michael J. Wilson
Registered Professional Surveyor No. 4026
State of Texas
June 9, 1989



DUNAWAY ASSOCIATES/SURVEYING

DUNAWAY ASSOCIATES/SURVEYING
A PROFESSIONAL CORPORATION
400 INTERNATIONAL BLVD.
TOWSON, MARYLAND
FORT WORTH, TEXAS 76102
(817) 720-7407



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Municipal Setting Designation Application Form

TCEQ Office Use Only:	Date Add. Info Req. 11 / 8 / 06
Application No: 022	Date Add. Info Rec'd 11 / 9 / 06
Date Received: 8 / 11 / 06	Date Certified: / /
	Date Denied: / /

Reset form

Municipal Setting Designation Eligibility Criteria:

Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.utsa.edu/tpepp/txpopest.php .)	<input type="radio"/> Yes	<input type="radio"/> No ¹
Is the proposed municipal setting designation (MSD) within the extraterritorial jurisdiction of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.utsa.edu/tpepp/txpopest.php .)	<input type="radio"/> Yes	<input type="radio"/> No ¹
Municipality name: City of Ft. Worth	Population: 619,037	
Is there a public drinking water supply system that satisfies the requirements of THSC Chapter 341 and supplies or is capable of supplying drinking water to: a) the proposed MSD property, and b) each property within 0.5 miles beyond the boundary of the proposed MSD?	<input type="radio"/> Yes	<input type="radio"/> No ¹
¹ If No, the eligibility criteria are not met. Do not submit an application.		

Applicant and Fee Payment Information:

Contact Person: <input checked="" type="radio"/> Mr. <input type="radio"/> Ms. Greg Rogers		
Title: Attorney		
Company: DTX Associates		
Mailing Address: 750 N. St. Paul Street, Suite 200		
City: Dallas	State: TX	Zip: 75201
Telephone: 214 / 692-0009	Telefax: 214 / 692-6612	
E-mail Address: [REDACTED]		
Is the required \$1,000 application being submitted to TCEQ in advance or at the same time the MSD application is being submitted to TCEQ?	<input type="radio"/> Yes	<input type="radio"/> No ²
² Do not submit application.		

Notice Information:

<u>On</u> or <u>before</u> the date of submission of the application to TCEQ, was notice provided to:		
a) each municipality:		
1) where the proposed MSD is located?	<input type="radio"/> Yes	<input type="radio"/> No ³
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
3) that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
b) each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
³ Do not submit application.		
⁴ NA only when no such municipality, private well owner, or retail public utility exists		

MSD Information:

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable.
 VCP No. 1030

Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GW _{ing})?	<input type="radio"/> Yes	<input checked="" type="radio"/> No ⁶
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 th Legislature.)	<input checked="" type="radio"/> Yes, when? 08 / / 99	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes ⁶	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes ⁶	<input type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input type="radio"/> Yes	<input type="radio"/> No ⁶
Is a copy of the ordinance or restrictive covenant that restricts consumptive use and appropriately restricts other uses of and contact with the designated groundwater, and any required resolutions provided with this application?	<input type="radio"/> Yes	<input type="radio"/> No

⁵ "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].

⁶ Do not submit an application.

I affirmatively state that (place an X in all applicable blanks):

- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Applicant Signature [Handwritten Signature]

Date 7/31/06

Before me [Handwritten Signature] the undersigned authority, on this day personally appeared
 Name of Notary

C. Gregory Rogers and signed this Municipal Setting Designation Application.
 Name of Applicant

Sworn, subscribed and signed before me in the County of Dallas, State of TX, on the 31
 day of July, 2006

