

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



MSD 23

MSD 17
↑
Cert

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 13, 2006

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

Re: Certification of Municipal Setting Designation (MSD) Application for Bank of the West, 108 West Northwest Highway, Grapevine, TX; MSDAPP023, MSD017

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 512/239-5872 or via e-mail (mfrew@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Project Manager
Environmental Cleanup Section II
Remediation Division

Enclosures

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 017

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 Bank of the West, 108 W. Northwest Highway, Grapevine, 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 1st day of November, 2006.

A handwritten signature in black ink, appearing to read "Glenn Shankle", written over a horizontal line.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

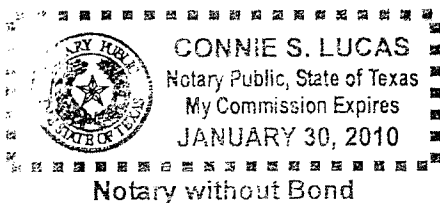
STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 1st 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 1st day of November, 2006.

A handwritten signature in black ink, appearing to read "Connie S. Lucas", written over a horizontal line.

Notary Public in and for the State of Texas



'A'

LEGAL DESCRIPTION

BEING a 4.568 acre tract of land in the A. F. Leonard Survey, Abstract no. 946 in the City of Grapevine, Tarrant County, Texas and being part of Lot 1, Block 1, Elliott's Hardware Addition an addition to the City of Grapevine as recorded in Cabinet A, Slide 714 of the Plat Records of Tarrant County, Texas and being more particularly described as follows:

BEGINNING at a concrete monument found in the west right-of-way line of North Main Street (R.O.W. varies) and the north right-of-way line of Highway Business 114L (R.O.W. varies);

THENCE S 89° 17' 59" W along said north right-of-way line a distance of 192.73 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap as said point being in the east right-of-way line of Barton Street (40' R.O.W.);

THENCE N 00° 10' 33" E along said east right-of-way a distance of 282.73 feet to a P.K. Nail set in the asphalt;

THENCE S 89° 17' 28" W a distance of 40.00 feet to a "X" cut on concrete and said point being in the west right-of-way line of Barton Street and in the east property line of Grapevine Shopping Center as recorded in Volume 388-127, Page 91 P.R.T.C.T.;

THENCE N 00° 10' 33" E a distance of 3.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap and being by plat call the northeast corner of said Grapevine Shopping Center tract;

THENCE S 89° 17' 28" W along the north line of said Grapevine Shopping Center tract passing at 134.73 feet a 1/2" iron rod found with a cap and being by plat call the northwest corner of said Grapevine Shopping Center tract and the northeast corner of Lot 1R, Block 10R Starr Addition, an addition to the City of Grapevine as recorded in Volume 16706, Page 52 of the Deed Records of Tarrant County, Texas and continuing in all a distance of 239.80 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap said point being by plat call northwest corner of said Lot 1R, Block 10R and also being in the east line of Lot 2R, Block 13R Starr Addition;

THENCE N 00° 20' 08" E along east side of said Lot 2R, Block 13R a distance of 217.70 feet to a 1/2" iron rod found and said point being by plat call the northeast corner of said Lot 2R, Block 13R and also being in the south line of Banyan Place an addition to the City of Grapevine as recorded in Volume 388-180, Page 83 P.R.T.C.T.;

THENCE N 89° 05' 38" E along said south line Banyan Place a distance of 573.98 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the west right-of-way line of North Main Street and also being the southeast corner of Lot 3, Cook's Subdivision an addition to the City of Grapevine as recorded in Volume 388-H, Page 345 P.R.T.C.T.;

THENCE S 00° 11' 30" W along said west right-of-way a distance of 281.74 feet to a concrete monument;

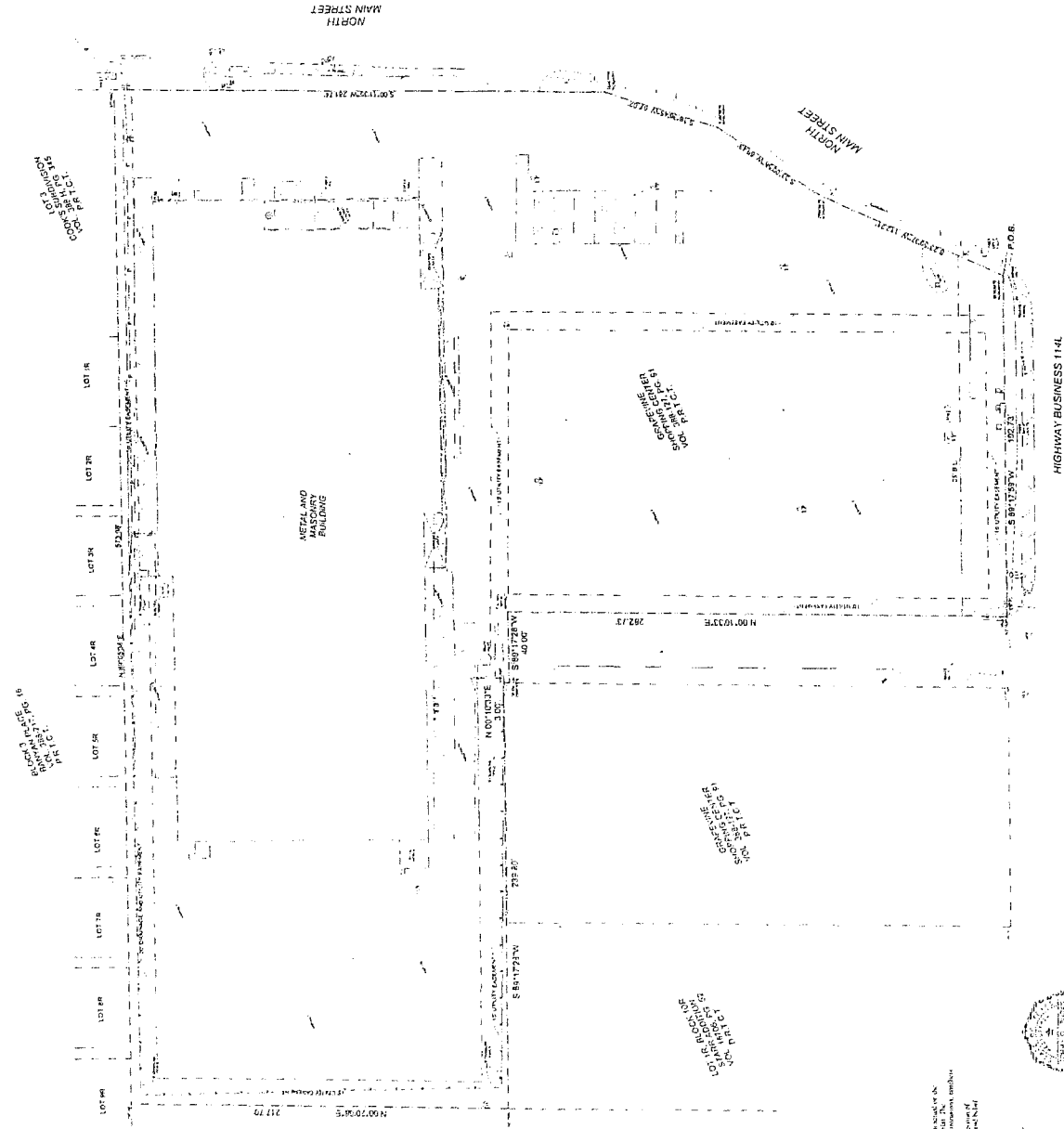
THENCE S 16° 36' 45" W along said west right-of-way a distance of 67.02 feet to a concrete monument;

THENCE S 33° 00' 58" W along said west right-of-way a distance of 69.43 feet to a concrete monument;

THENCE S 23° 59' 37" W along said west right-of-way a distance of 112.21 feet to the Point of Beginning and containing in all 197995 square feet or 4.568 acres of land.

LEGAL DESCRIPTION

BEING a 50% undivided interest in the A.C. Leonard Survey, Abstract No. 144, in the City of Dallas, Texas, and being more particularly described as follows: ...



SCALE: 1" = 30'
15 6 15 30 45

- Legend for symbols:
1. Surveyed boundary
2. Surveyed building
3. Surveyed structure
4. Surveyed well
5. Surveyed utility
6. Surveyed fence
7. Surveyed easement
8. Surveyed right-of-way
9. Surveyed other

SURVEY PLAT
LOT 1, BLOCK 1
ELIOTT'S SUBDIVISION ADDITION
A. F. LEONARD SURVEY, ABSTRACT NO. 144
CITY OF DALLAS, TEXAS



Hershman Surveying
1111 North Stemmons Freeway, Suite 1000
Dallas, Texas 75207
Phone: 214-761-1111
Fax: 214-761-1112

I, the undersigned, being a duly licensed Surveyor in the State of Texas, do hereby certify that this is a true and correct copy of the original survey as shown to me by the owner thereof, and that the same conforms to the requirements of the laws of the State of Texas in that behalf made, and that I am a duly licensed Surveyor in the State of Texas.

'B'



Municipal Setting Designation Application Form

TCEQ Office Use Only:	Date Add. Info Req. / /
Application No: 023	Date Add. Info Rec'd / /
Date Received: 8/31/06	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:	Population:	
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 type="radio"/> Mr. <input type="radio"/> Ms. C. Gregory Rogers		
Title: Attorney		
Company: Guida, Slavich & Flores, P.C.		
Mailing Address: 750 N. St. Paul Street, Suite 200		
City: Dallas	State: TX	Zip: 75201
Telephone: 214.692.0009	Telefax: 214.692.6610	
E-mail Address:		
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 or 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. 1794		
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 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? 02 / 10 / 05	<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.

[Signature]
Applicant Signature

8/30/06
Date

Before me Susan Hill the undersigned authority, on this day personally appeared
Greg Rogers Name of Notary 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 30 day of August, 2006.

