

MSD 024 MSD 16  
Cert

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*

October 31, 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 Greenway-Gaston, LLC, 4105, 4111, 4121, 4122, 4130, 4201 and 4204 Gaston Avenue, 912 and 916 North Haskell Avenue and 4122 Swiss Avenue, Dallas, Dallas County, TX; MSDAPP 024; MSD 016

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 at [mfrew@tceq.state.tx.us](mailto: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

MF/ts

# Texas Commission on Environmental Quality



## Municipal Setting Designation Certificate 016

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 Gaston Avenue Properties, 4105 4111, 4121, 4122, 4130, 4201, 4204 Gaston Avenue; 912, 916 North Haskell Avenue; 4122 Swiss Avenue, Dallas, Texas, 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 24 day of October, 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 24 day of October, 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 24 day of October, 2006.

A handwritten signature in black ink, appearing to read "Tangela Aleane Niemann", written over a horizontal line.

Notary Public in and for the State of Texas

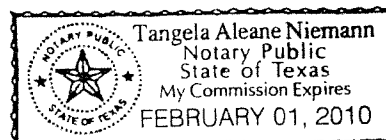
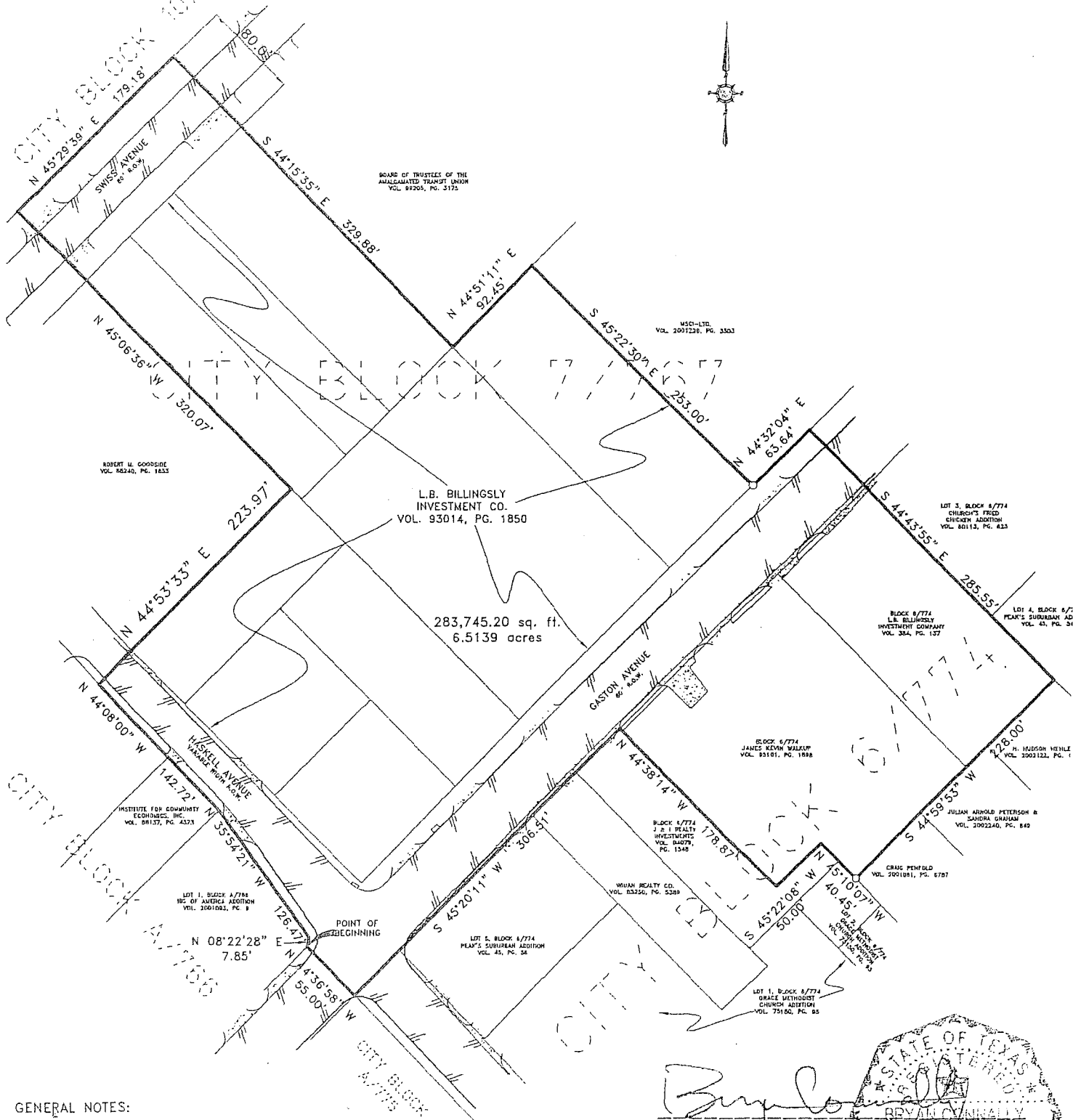


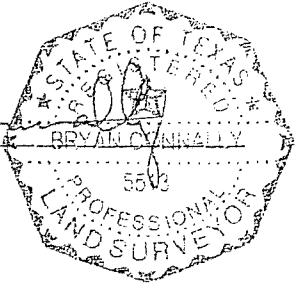
EXHIBIT "A"  
M.S.D. SURVEY



GENERAL NOTES:

BEARINGS ARE BASED ON CHURCH'S FRIED CHICKEN ADDITION, RECORDED IN VOLUME 80113, PG. 625, D.R.D.C.T.

*Bryan Connally*  
BRYAN CONNALLY  
R.P.L.S. NO. 5513



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SHEET 1 OF 3  
JOB NO. 0602093-2  
DRAWN BY: R.G..

EXHIBIT "A"  
M.S.D. SURVEY

Being a tract of land situated in the John Grigsby Survey, Abstract No. 594 and being part of City Block 6/744 and City Block 7/767 in the City of Dallas, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner, said corner lying in the West intersection of Haskell Avenue (variable width right of way) and Gaston Avenue (variable width right of way) and being the East corner of Lot 1, Block A/766 of IBS of America Addition, an Addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 2001093, Page 9 of the Map Records of Dallas County, Texas;

THENCE North 08 degrees 22 minutes 28 seconds East along said intersection, a distance of 7.85 feet to a point for corner, said corner lying in the Southwest line of said Haskell Avenue;

THENCE North 35 degrees 54 minutes 21 seconds West along the Southwest line of said Haskell Avenue, a distance of 126.47 feet to a point for corner;

THENCE North 44 degrees 08 minutes 00 seconds West continuing along the Southwest line of said Haskell Avenue, a distance of 142.72 feet to a point for corner;

THENCE North 44 degrees 53 minutes 33 seconds East, a distance of 223.97 feet to a point for corner, said corner being the East corner of a tract of land conveyed to Robert M. Goodside by Deed Records in Volume 88240, Page 1653, Deed Records, Dallas County, Texas;

THENCE North 45 degrees 06 minute 36 seconds West along the Northeast line of said Goodside tract, a distance of 320.07 feet to a point for corner, said corner lying in the Northwest line of Swiss Avenue (80 foot right of way);

THENCE North 45 degrees 29 minutes 39 seconds East along the Northwest line of said Swiss Avenue, a distance of 179.18 feet to a point for corner;

THENCE South 44 degrees 15 minutes 35 seconds East, a distance of 329.88 feet to a point for corner, said corner being the South corner of a tract of land conveyed to Board of Trustees of the Amalgamated Transit Union by Deed Records in Volume 99205, Page 3175, Deed Records, Dallas County, Texas;

THENCE North 44 degrees 51 minutes 11 seconds East along the Southeast line of said Amalgamated Transit Union tract, a distance of 92.45 feet to a point for corner, said corner being the West corner of a tract of land conveyed to MSCI-LTD by Deed Records in Volume 2001229, Page 3303, Deed Records, Dallas County, Texas;

THENCE South 45 degrees 22 minutes 30 seconds East along the Southwest line of said MSCI-LTD tract, a distance of 253.00 feet to a 1/2 inch iron rod found for corner, said corner lying in the Northwest line of said Gaston Avenue;

THENCE North 44 degrees 32 minutes 04 seconds East along the Northwest line of said Gaston Avenue, a distance of 63.64 feet to a point for corner;

THENCE South 44 degrees 43 minutes 55 seconds East, a distance of 285.55 feet to a point for corner, said corner being the North corner of a tract of land conveyed H. Hudson Henley by Deed recorded in Volume 200122, Page 6183, Deed Records, Dallas County, Texas;

THENCE South 44 degrees 59 minutes 53 seconds West, a distance of 228.00 feet to a 1/2 inch iron rod found for corner, said corner being in the Northeast line of Grace Methodist Addition, an Addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 75150, Page 95 of the Map Records of Dallas County, Texas;



THENCE North 45 degrees 10 minutes 07 seconds West along the Northeast line of said Grace Methodist Addition, a distance of 40.45 feet to a point for corner;

THENCE South 45 degrees 22 minutes 08 seconds West, a distance of 50.00 feet to a point for corner, said corner lying in the Northeast line of a tract of land conveyed to J & I Realty Investments by Deed recorded in Volume 94079, Page 1548, Deed Records, Dallas County, Texas;

THENCE North 44 degrees 38 minutes 14 seconds West along the Northeast line of said J & I Realty tract, a distance of 178.87 feet to a point for corner, said corner lying in the Southeast line of said Gaston Avenue;

THENCE South 45 degrees 20 minutes 11 seconds West along the Southeast line of said Gaston Avenue, a distance of 306.51 feet to a point for corner, said corner being in the South intersection of said Haskell Avenue and Gaston Avenue;

THENCE North 44 degrees 36 minutes 58 seconds West, a distance 55.00 feet to the POINT OF BEGINNING and containing 283,745.20 square feet or 6.5139 acres of land.

  
BRYAN CONNALLY  
R.P.L.S. NO. 5513 5518  




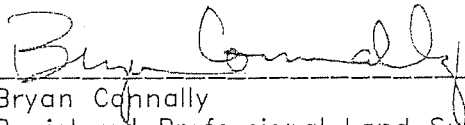
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SHEET 2 OF 3  
JOB NO. 0603399-2  
DRAWN BY: R.G.

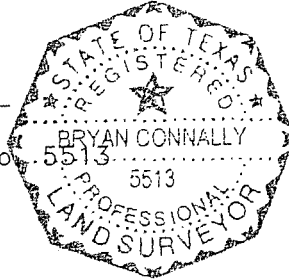
EXHIBIT "A"  
M.S.D. SURVEY

The undersigned Registered Professional Land Surveyor (Bryan Connally) hereby certifies that, (a) this survey and the property description set forth hereon were prepared from an actual on-the-ground survey; (b) such survey was conducted by the Surveyor, or under his direction; (c) all monuments shown hereon actually existed on the date of the survey, and the location, size and type of material thereof are correctly shown; Use of this survey by any other parties and/or for other purposes shall be at User's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. The plat hereon is a correct and accurate representation of the property lines and dimensions are as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries the distances indicated and there are no visible and apparent encroachments or protrusions on the ground.

Executed this 25th day of April, 2006



Bryan Connally  
Registered Professional Land Surveyor No. 5513



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SHEET 3 OF 3  
JOB NO. 0602093-2  
DRAWN BY: R.G..

3



### Municipal Setting Designation Application Form

<b>TCEQ Office Use Only:</b>	Date Add. Info Req. / /
Application No:	Date Add. Info Rec'd / /
Date Received: 9/19/06	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 <a href="http://txsdc.utsa.edu/tpepp/txpopest.php">http://txsdc.utsa.edu/tpepp/txpopest.php</a> .)	<input type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
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 <a href="http://txsdc.utsa.edu/tpepp/txpopest.php">http://txsdc.utsa.edu/tpepp/txpopest.php</a> .)	<input type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
Municipality name: Dallas	Population: 1,214,048	
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 <sup>1</sup>
<sup>1</sup> If No, the eligibility criteria are not met. <b>Do not submit an application.</b>		

**Applicant and Fee Payment Information:**

Contact Person: <input type="radio"/> Mr. <input type="radio"/> Ms. C. Gregory Rogers		
Title: Attorney for Greenway-Gaston, LLC		
Company: Greenway-Gaston, LLC c/o 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: [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 <sup>2</sup>
<sup>2</sup> 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 <sup>3</sup>
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
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 <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
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 <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
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 <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
<sup>3</sup> Do not submit application.		
<sup>4</sup> 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~~ 1908 *my*

Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GW <sub>ing</sub> )?	<input type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 <sup>th</sup> Legislature.)	<input checked="" type="radio"/> Yes, when? 02 / /06	<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 <sup>6</sup>	<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 <sup>6</sup>	<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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
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

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

<sup>6</sup> Do not submit an application.

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

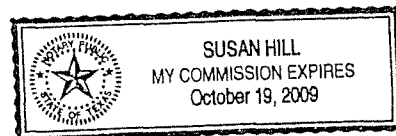
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed 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

09/18/06  
Date

Before me Susan Hill the undersigned authority, on this day personally appeared  
Name of Notary  
Greenway-Gaston, LLC and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of Dallas, State of Texas, on the 18<sup>th</sup>  
day of September, 2006.



# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Glenn Shankle,  
Executive Director

**Date:** October 12, 2006

**Thru:** *De* Dan Eden, Deputy Director, OPRR  
*10/19/06*  
*CRS* Alan R. Batcheller, P.G., Director, Remediation Division

**From:** *10/12/06*  
*mf* Mike Frew, Project Manager, Environmental Cleanup Section II

**Subject:** Municipal Setting Designation (MSD) Certification of *Gaston Avenue Properties, 4105, 4111, 4121, 4122, 4130, 4201, 4204 Gaston Avenue; 912, 916 North Haskell Avenue; 4122 Swiss Avenue, Dallas, TX (MSDAPP024, MSD016)*

The application was received for this proposed Municipal Setting Designation (MSD) property on September 19, 2006. This MSD is specific to the groundwater at depths of less than 60 feet below ground surface. The City of Dallas is in support of the MSD application and has already adopted an ordinance to prohibit use of the groundwater beneath the MSD property.

The application is administratively complete and meets the eligibility requirements in Texas Health and Safety Code (Solid Waste Disposal Act) §361.803 and the precertification requirements in Texas Health and Safety Code §361.8065. Therefore, the site is submitted to the Executive Director with the recommendation to issue an MSD certificate pursuant to Texas Health and Safety Code §361.807. Your notarized signature is requested on the attached certificate. If you have any questions, you may contact me at extension 5872 or via e-mail ([mfrew@tceq.state.tx.us](mailto:mfrew@tceq.state.tx.us)).