

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



MSD 31 MSD 35
↑
cert

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 4, 2007

Mr. Neal Sleeper, President
Blackburn Central Holdings, L.P.
3232 McKinney Avenue, Suite 890
Dallas, Texas 7504-7417

Re: Certification of Municipal Setting Designation (MSD) Application for 3601 and 3605
McKinney and 3128 East Lemmon Avenue, Dallas, Dallas County, TX; MSD No. 035.

Dear Mr. Sleeper:

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 512/239-6753 or via e-mail (jbell@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Bell".

Joe Bell, P.G., Project Manager
Environmental Cleanup Section II
Remediation Division

JB/ts

Enclosure

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 035

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 Blackburn Central Holdings, Inc., 3601 and 3605 McKinney and 3128 East Lemmon Avenue, Dallas, 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 4 day of September, 2007.



Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

Exhibit 'A'

32,883 SQ. FT. (0.7549 AC.)
PART OF CITY BLOCKS 980 & A/980
PART OF LEMMON AVE. & MCKINNEY AVE. R.O.W.
DALLAS, DALLAS COUNTY, TEXAS

PROPERTY DESCRIPTION

BEING a tract of land situated in the John Grigsby Survey, Abstract No. 495, and being a part of Dallas City Block 980, and being a part of that tract conveyed to Blackburn Central Holdings, L.P., as evidenced by General Warranty Deed recorded in Volume 96208, Page 3710, Deed Records, Dallas County, Texas, and being a portion of Lot 1A, Block A/980, West Village Addition, an Addition to the City of Dallas as recorded by plat in Volume 2001099, Page 0001, Deed Records, Dallas County, Texas, and part of that tract conveyed to West Village Limited Partnership by deed recorded in Volume 99006, Page 6816, Deed Records, Dallas County, Texas, and also being that tract conveyed to Mario Messina by deed in Volume 82173, Page 3905, Deed Records, Dallas County, Texas, and further being a part of the public right of way of Lemmon Avenue East (60' R.O.W) and a part of the public right of way of McKinney Avenue (variable width R.O.W), and being more particularly described as follows:

BEGINNING at a corner at the intersection of the southwest line of said Lemmon Avenue East with the southeast line of the said McKinney Avenue;

THENCE N 45°28'01" W, along said southwest line of Lemmon Avenue East, a distance of 228.39 feet to a corner;

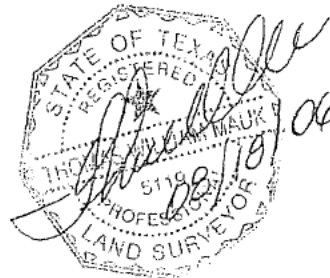
THENCE N 45°20'37" E, departing said southwest line and along a projection of the northwest line of a tract conveyed to Mario Messina by deed recorded in Volume 82173, Page 3905, Deed Records, Dallas County, Texas, passing at a distance of 60.00 feet the northeast line of said Lemmon Avenue East, and continuing along said projection and across the aforementioned Lot 1A a further distance of 99.29 feet to the northwest corner of said Messina tract, and continuing along said northwest Messina tract line in all a total distance of 160.29 feet to the northeast corner of said Messina tract;

THENCE S 46°07'43" E, along the common easterly line of said Messina tract and said Lot 1A, passing at a distance of 116.78 feet the southeast corner of said Messina tract in the northwest line of the aforementioned McKinney Avenue, and continuing along the projection of said common easterly line, in all a total distance of 179.05 feet in the aforementioned southeast line of McKinney Avenue;

THENCE S 28°21'37" W, along said southeast line of McKinney Avenue, a distance of 169.03 feet to the POINT OF BEGINNING and containing 32,883 square feet or 0.7549 acres of land, more or less.

BASIS OF BEARINGS

The basis of bearings shown hereon, N45°28'01"W, is the northeast line of Lemmon Avenue East as shown on the Final Plat of West Village Addition, an Addition to the City of Dallas, Texas, as recorded by plat in Volume 2001099, Page 0001, Deed Records, Dallas County, Texas.



□ BROCKETTE : DAVIS DRAKE , inc.
□ consulting engineers

Civil & Structural Engineering Surveying

4144 Central Expwy., Suite 1100 Dallas, Texas 75204 (214)824-3647

SCALE 1"=40'



32,883 SQ. FT. (0.7549 AC.)
PART OF CITY BLOCKS 980 & A/980
PART OF LEMMON AVE. & MCKINNEY AVE. R.O.W.
DALLAS, DALLAS COUNTY, TEXAS

LEMMON AVENUE (EAST)
60' R.O.W.

MCKINNEY AVENUE
VARIABLE WIDTH R.O.W.

LOT 1A, BLOCK A/980
WEST VILLAGE ADDITION
VOL. 2001099, PG. 0001
WEST VILLAGE LIMITED PARTNERSHIP
VOLUME 99006, PAGE 6816

LOT 1A, BLOCK A/980
WEST VILLAGE ADDITION
VOL. 2001099, PG. 0001
S 46°07'43" E 179.05'

M. MESSINA
VOL. 82175, PG. 3905
BLOCK 980

N 45°20'37" E - 160.29'

BLACKBURN CENTRAL
HOLDINGS, L.P.
V. 96208, P. 3710
BLOCK 980

32,883 SQ. FT. TRACT E

x cut found

x cut found

DALLAS CITY BLOCK 978
N 45°28'01" W 228.39'



S 28°21'37" W 169.03'

LOT 1, BLOCK A/977
CITY PLACE WEST ADDITION
VOL. 93191, PG. 7504

POINT OF BEGINNING
32,883 SQ. FT. TRACT E

BASIS OF BEARINGS

The basis of bearings shown hereon, N45°28'01"W,
is the northeast line of Lemmon Avenue East as
shown on the Final Plat of West Village Addition,
an Addition to the City of Dallas, Texas, as recorded
by plat in Volume 2001099, Page 0001, Deed Records,
Dallas County, Texas.

 BROCKETTE DAVIS DRAKE, inc.
 consulting engineers

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Job No. C04156

August, 2006

Sheet 2 of 2



Exhibit 'B'

| | | | |
|---|--------------------------------------|---------------------------------------|---------------------------------------|
| 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 checked="" 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. 851

| | | |
|---|---|---------------------------------------|
| 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? 11 / 13 / 98 | <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 checked="" 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 checked="" 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 checked="" 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 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 checked="" 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.

Neal Sleeper
Applicant Signature

1-23-07
Date

Before me Pamela Willmann the undersigned authority, on this day personally appeared
Name of Notary
Neal Sleeper 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 23rd day of January, this month of _____, 2007.

