

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Glenn Shankle, *Executive Director*



MSD - 47

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 30, 2007

Ms. Cynthia J. Bishop  
Gardere Wynne Sewell, LLP  
1601 Elm Street, Suite 3000  
Dallas, Texas 75201

RE: Certification of Municipal Setting Designation Application for Ranco, Inc., 1900 Billy Mitchell Blvd., Brownsville, TX; Municipal Setting Designation (MSD) No. 47

Dear Ms. Bishop:

Enclosed is the Municipal Setting Designation 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 do not hesitate to 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", with a long horizontal flourish extending to the right.

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

Enclosure

MF/cjh

# Texas Commission on Environmental Quality



## Municipal Setting Designation

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 MSD 47, in the City of Brownsville, 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 15 day of November, 2007.

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

Glenn Shankle  
Executive Director  
Texas Commission on Environmental Quality

"A"

DESCRIPTION OF "THE DEMISED PREMISES"

ELCA – RANCO LEASE

Being 5.96 acres out of Blocks 9, D, and E in the Chicago Gardens Subdivision, Share 28, Espiritu Santo Grant as recorded in Volume Q, Page 119, Deed Records of Cameron County, Texas; said 5.96 acres being more particularly located and described as follows:

Commencing at the Northeast corner of Elca Industrial Park Subdivision, Section I, as recorded in Volume 29, Page 36, Map Records of Cameron County, Texas; Thence North  $87^{\circ} 30'$  West, a distance of 865.68 feet; thence South  $2^{\circ} 30'$  West, a distance of 617.33 feet to the Northwest corner and PLACE OF BEGINNING of this 5.96 acre tract;

THENCE South  $87^{\circ} 30'$  East, a distance of 426.52 feet for the Northeast corner of this tract;

THENCE South  $2^{\circ} 30'$  West, at 456.56 feet to the North Right-of-Way line of Morningside Road, a total distance of 478.36 feet to the centerline of Morningside Road, also being the South boundary line of said Block E, Chicago Gardens Subdivision for the Southeast corner of this tract;

THENCE continuing along the centerline of Morningside Road, North  $64^{\circ} 00'$  West, a distance of 18.68 feet to an angle point, being the Southwest corner of said Block E, and the Southeast corner of Block D, for a corner of this tract;

THENCE continuing along the centerline of Morningside Road, also being the South boundary line of said Block D, South  $57^{\circ} 30'$  West, a distance of 499.77 feet for the Southwest corner of this tract;

THENCE North  $2^{\circ} 30'$  East at 24.42 feet to the North Right-of-Way line of Morningside Road, a total distance of 757.57 feet to the PLACE OF BEGINNING, containing 5.96 acres, more or less.

"B"

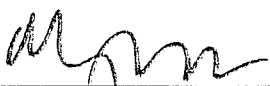
c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No <sup>3</sup>	<input checked="" type="radio"/> NA <sup>4</sup>
<sup>3</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 # 1566, SWR# 38665		
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 checked="" 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? 12 / 10 / 01	<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 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 <sup>6</sup>	<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 <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 checked="" 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.

  
 Applicant Signature \_\_\_\_\_ Date 8-1-07

Before me Georgia H. Lucy the undersigned authority, on this day personally appeared  
Name of Notary  
Timothy J. Dolan and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of Henrico, State of Virginia, on the 1st day of August, 2007.

Notary Registration Number: 4126596



## Municipal Setting Designation Application Form

<b>TCEQ Office Use Only:</b> Application No: 047 Date Received: 8/14/07	Date Add. Info Req. / / Date Add. Info Rec'd / / Date Certified: / / Date Denied: / /
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**Reset Form**

**Municipal Setting Designation Eligibility Criteria:**

Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute?	<input checked="" 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?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
Municipality name: <b>Brownsville</b>	Population: <b>172,437</b>	
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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
<sup>1</sup> 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 checked="" type="radio"/> Ms. Cynthia J. Bishop		
Title: Counsel for Ranco, Inc.		
Company: Ranco, Inc. c/o Gardere Wynne Sewell, LLP		
Mailing Address: 1601 Elm Street, Suite 3000		
City: Dallas	State: TX	Zip: 75201
Telephone: 214 /999-4506	Telefax: 214 /999-3506	
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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>2</sup>
<sup>2</sup> Do not submit application.		

**MSD Property Address:**

Street Address: 1900 Billy Mitchell Blvd.	Zip: 78521
City: Brownsville	Acres: 5.96
County: Cameron	
If multiple properties provide an attachment to the application providing the above information for each property.	

**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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>4</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 checked="" 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 checked="" 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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>