

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 29, 2010

Mr. Wayne Peterson, Chief Financial Officer
Minyard Food Stores, Inc.
777 Freeport Parkway
Coppell, TX 75019

RE: Municipal Setting Designation (MSD) No. 132, Certificate for Minyard Food Stores, Inc., 3230 Martin Luther King Boulevard and 1707 Robert B. Cullum Boulevard, Dallas, Dallas County, Texas

Dear Mr. Peterson:

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) 239-2204 or via e-mail (aprice@tceq.state.tx.us).

Sincerely,

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

Andre V. Price, Project Manager
VCP-CA Section
Remediation Division

AP/jdm

Enclosure

cc: Mr. Otu Ekpo-Otu, VCP No. 2221, Project Manager, Remediation Division, MC-221

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



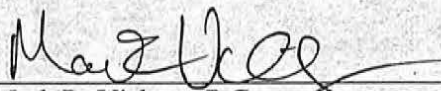
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 132, in the City of Dallas, for 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 the 16th day of April, 2010



Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

EXHIBIT "A"

PROPERTY DESCRIPTION

BEING a tract of land situated in the Thomas Lagow Survey, Abstract No. 759, being all of Lot 7A, Block 9/1382, Minyard Addition No. 3, an Addition in the City of Dallas, Texas according to the Plat thereof recorded in Volume 96240, Page 2855, Map Records, Dallas County, Texas, all of Lot 1, Block A/1379, Minyard Addition No. 2, an Addition in the City of Dallas, Texas according to the Plat thereof recorded in Volume 94215, Page 2148, Map Records, Dallas County, Texas, all of that certain tract of land conveyed to Minyard Food Store by Quitclaim Deed recorded in Volume 97218, Page 5499, Deed Records, Dallas County, Texas, being a portion of Peabody Avenue (a variable ROW), Fourth Avenue (a 50' ROW), Martin Luther King, Jr. Boulevard (an 86' ROW) and a 30' alley and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for corner in the Southwest ROW line of Robert B. Cullum Boulevard (State Highway No. 352) (a 170' ROW), said iron rod also being at the East corner of said Lot 7A, Block 9/1382 and the North corner of Lot 10, Block 9/1382, El Molino, recorded in Volume 1, Page 29, Map Records, Dallas County, Texas;

THENCE: South 42 degrees 33 minutes 51 seconds West, departing the Southwest ROW line of Robert B. Cullum Boulevard (State Highway No. 352), along the common line of said Lot 7A, Block 9/1382 and said Lot 10, Block 9/1382, a distance of 112.00 feet to a 1/2 inch iron rod found for corner in the Northeast ROW line of Fourth Avenue, said iron rod being at the South corner of said Lot 7A and the West corner of said Lot 10;

THENCE: South 45 degrees 00 minutes 27 seconds East, along the Northeast ROW line of Fourth Avenue and the Southwest line of said Lot 10, Block 9/1382, a distance of 0.34 feet to a point for corner,

THENCE: South 42 degrees 26 minutes 10 seconds West, departing the Northeast ROW line of Fourth Avenue, along the Southeast line of a 30' alley, a distance of 391.38 feet to a point for corner in the Northeast ROW line of Trunk Street (a 50' ROW), said point also being in the Northwest line of Lot 14, Block 1381, Bernier's Subdivision, recorded in Volume 844, Page 842, Map Records, Dallas County, Texas;

THENCE: North 47 degrees 57 minutes 32 seconds West, along the Northeast ROW line of Trunk Street, at 30.00 feet passing the South corner of said Lot 1, Block A/1379, continuing along the Northeast ROW line of Trunk Street and the Southwest line of said Lot 1, a total distance of 592.87 feet to a point for corner at the intersection of said Northeast ROW line with the Northwest ROW line of Martin Luther King, Jr. Boulevard;

THENCE: North 42 degrees 48 minutes 19 seconds East, along the Northwest ROW line of Martin Luther King, Jr. Boulevard, a distance of 441.35 feet to a point for corner at the intersection of said Northwest ROW line with the Northeast ROW line of Fourth Avenue;

THENCE: South 45 degrees 07 minutes 19 seconds East, along the Northeast ROW line of Fourth Avenue, a distance of 380.96 feet to a point for corner at the West end of a cutoff at the intersection

EXHIBIT "A"

PROPERTY DESCRIPTION

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of said Northeast ROW line with the Northwest ROW line of Peabody Avenue, said point also being at the Southwest corner of Lot 1, Block 1378, NCNB Fair Park, recorded in Volume 91167, Page 1184, Map Records, Dallas County, Texas;

THENCE: North 89 degrees 27 minutes 41 seconds East, along said cutoff, a distance of 14.04 feet to a point for corner at the East end of said cutoff, said point being at the Southeast corner of said Lot 1, Block 1378;

THENCE: North 44 degrees 02 minutes 40 seconds East, along the Northwest ROW line of Peabody Avenue and the Southeast line of said Lot 1, Block 1378, a distance of 81.62 feet to a point for corner in the Southwest ROW line of Robert B. Cullum Boulevard (State Highway No. 352) and the Southeast line of a tract of land conveyed to Josephine Knight by Deed recorded in Volume 4557, Page 70, Deed Records, Dallas County, Texas;

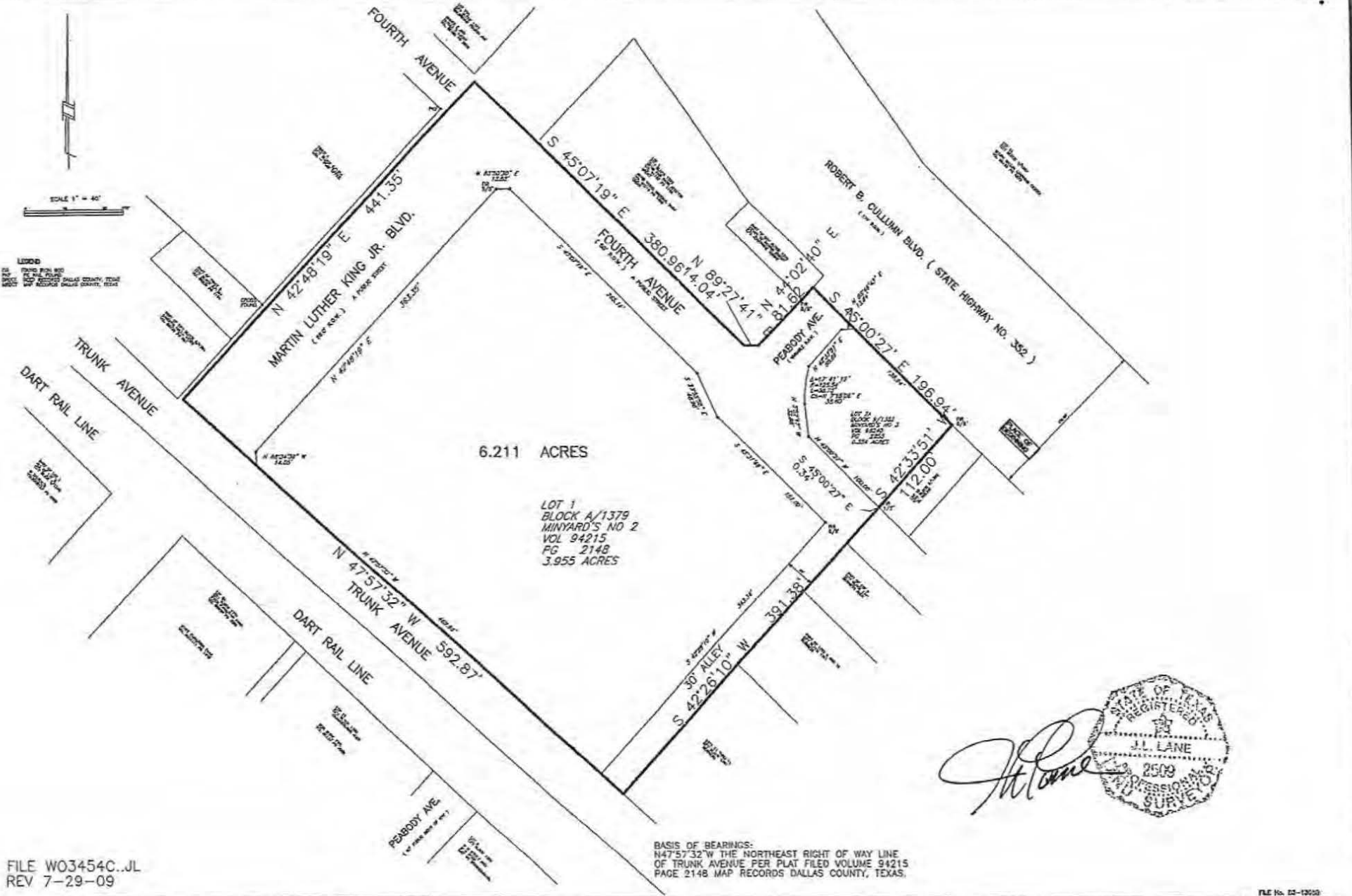
THENCE: South 45 degrees 00 minutes 27 seconds East, along the Southwest ROW line of Robert B. Cullum Boulevard (State Highway No. 352), at 60.00 feet passing the East end of a cutoff at the intersection of said Southwest ROW line with the Southeast ROW line of Peabody Avenue, continuing along said Southwest ROW line and the Northeast line of said Lot 7A, Block 9/1382, a total distance of 196.94 feet to the PLACE OF BEGINNING and containing 6.211 acres of land.

July 31, 2009


J. L. LANE
REGISTERED PROFESSIONAL LAND SURVEYOR No. 2509



EXHIBIT "A"



6.211 ACRES

LOT 1
 BLOCK A/1379
 MINYARD'S NO 2
 VOL 94215
 PG 214B
 3.955 ACRES

BASIS OF BEARINGS:
 N47°57'32"W THE NORTHEAST RIGHT OF WAY LINE
 OF TRUNK AVENUE PER PLAT FILED VOLUME 94215
 PAGE 214B MAP RECORDS DALLAS COUNTY, TEXAS.

J. L. Lane
 2509
 STATE OF TEXAS
 REGISTERED
 PROFESSIONAL
 SURVEYOR

FILE W03454C..JL
 REV 7-29-09

FILE No. 03-13020

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 type="radio"/> Yes	<input type="radio"/> No ³	<input checked="" 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. RN103888459, RN103065777, CN601099575, IOP No. 376, PST Registration No. 69131, and VCP No. 2221		
Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GWing)?	<input checked="" 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? August 2003	<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.		

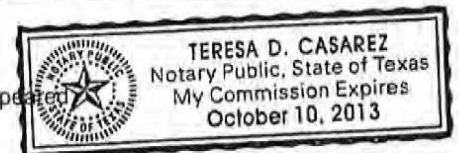
I affirmatively state that (place an X in all applicable blanks):

- 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.

Applicant Signature: Wayne Peterson
By: Wayne Peterson, Chief Financial Officer

Date: 02.08.10

Before me Teresa Casarez the undersigned authority, on this day personally appeared Wayne Peterson, Name of Notary
CFO for Minyard Food Stores, Inc. 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 8th day of February, 2010