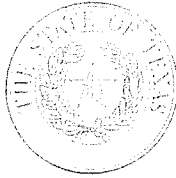


Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 10, 2010

Mr. Alan Vaughan
Minyard Food Stores, Inc.
8304 Esters Boulevard, Suite 860
Irving, Texas 75063

Re: Municipal Setting Designation (MSD) Certificate for Minyard Food Stores, Inc., 2200-2314 West Shady Grove Road, Irving, Dallas County, Texas; MSD No. 143

Dear Mr. Vaughan:

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) 239-2362 or via e-mail (marthur@tceq.state.tx.us).

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Arthur".

Mark Arthur, P.G., Project Manager
VCP-CA Section
Remediation Division

MA/jdm

Enclosure

cc: Mr. Martin Whitton, Project Manager for VCP No. 561, Remediation Division, MC-221

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



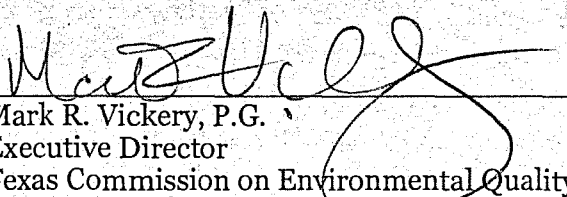
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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. 143, in the City of Irving, 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 5th day of November, 2010



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

Exhibit "A"

PROPERTY DESCRIPTION

BEING a tract of land out of the S. P. Montgomery Survey, Abstract No. 904, and the J. C. Read Survey, Abstract No. 1181, Dallas County, Texas, and being all of Lot 1A of the MINYARD ADDITION 2nd REVISION, an addition in the City of Irving, Texas, according to the plat thereof recorded in Volume 2000129, Page 3567 of the Map Records of Dallas County, Texas, and being more particularly described as follows:

COMMENCING at an iron rod found N 86° 35' 00" E, 30.00 feet from the intersection of the East ROW line of South Story Road (a 70' ROW) with the South ROW line of West Shady Grove Road (a 70' ROW) and being more particularly described as follows:

THENCE: N 86° 35' 00" E, along the South ROW line of West Shady Grove Road, a distance of 136.85 feet to an iron rod found at the TRUE PLACE OF BEGINNING:

THENCE: N 86° 35' 00" E, along the South ROW line of West Shady Grove Road, a distance of 598.77 feet to an iron rod found at the Northwest corner of Lot 18, Block A of Sandalwood No. 2 Addition, an addition in the City of Irving, Dallas County, Texas, according to the plat thereof recorded in Volume 46, Page 117, Map Records, Dallas County, Texas :

THENCE: Southerly, along the West lines of Lots 18, 17, 16, 15 and 14 of said Sandalwood No. 2 Addition, as found surveyed and occupied, the following four (4) calls:

(1) S 02° 04' 00" E, a distance of 72.00 feet to an iron rod found, being the Southwest corner of Lot 18 and the Northwest corner of Lot 17:

(2) S 04° 05' 00" E, a distance of 60.00 feet to an iron rod found, being the Southwest corner of Lot 17 and the Northwest corner of Lot 16:

(3) S 03° 22' 00" E, a distance of 120.00 feet to an iron rod found, being the Southwest corner of Lot 15 and the Northwest corner of Lot 14:

(4) S 06° 08' 00" E, a distance of 44.95 feet to an iron rod found for corner:

THENCE: Westerly and Southwesterly, along the Northerly lines of Lots 12, 11 and 10 of said Sandalwood No. 2 Addition, being along a curve to the left, having a radius of 718.14 feet, an arc distance of 253.99 feet, said arc having a central angle of 20° 15' 52" and a chord which bears S 67° 22' 42" W, to the end of said curve at the Northwest corner of said Lot 10 and the Northeast corner of Lot 9:

THENCE: Southwesterly and Westerly, along the Northerly lines of Lots 9, 8, 7 and 6 of said Sandalwood No. 2 Addition, being along a curve to the right, having a radius of 412.82 feet, an arc distance of 223.29 feet, said arc having a central angle of 30° 59' 27" and a chord which bears S 73° 20' 40" W, to the end of said curve, at the Northwest corner of Lot 6 and the Northeast corner, of Lot 5:

THENCE: S 88° 52' 00" W, along the North lines of Lots 5, 4, 3, 2 and 1 of said Sandalwood No. 2 Addition, being 105.00 feet North of and parallel with the North line of Woodoak Drive (a 50' ROW), a distance of 337.99 feet to an iron rod found on the East ROW line of South Story Road:

THENCE: N 00° 04' 00" W, along the East ROW line of South Story Road, a distance of 279.14 feet to an iron rod found:

THENCE: N 89° 56' 00" E, a distance of 29.97 feet to a pk nail for corner:

THENCE: N 00° 04' 01" W, a distance of 21.72 feet to a pk nail for corner:

THENCE: N 86° 35' 00" E, a distance of 143.80 feet to a pk nail for corner:

THENCE: N 03° 26' 04" W, a distance of 118.44 feet to the TRUE PLACE OF BEGINNING and containing 6.5373 acres of land.

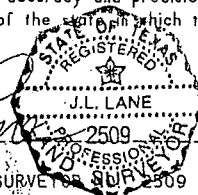
SURVEYOR'S CERTIFICATION

I hereby certify to Berkshire Mortgage Finance Corporation; Bank of America, N.A.; TSCA-222 Limited Partnership ; Minyard Properties, Inc.; First American Title Insurance Company and Republic Title of Texas, Inc. (GF No. 00R00021, issued June 22, 2000 with an effective date of June 8, 2000), and their successors and/or assigns, that the survey for this plat was made on the ground under my supervision from a recorded description in deed of record in Volume 93215, Page 8941, Map Records of Dallas County, Texas, and that the angular and linear measurements and all other matters shown hereon are correct. I further certify that this survey made under my supervision on June 19, 2000, correctly shows the total area of the subject property in acres and in square feet; the exact dimensions and location of improvements, walkways, paved areas and parking areas; all other matters on the ground which may adversely affect title to the subject property; the exact relation of buildings and other structures to the property lines of the land indicated hereon; the exact location of visible and recorded easements and other matters of record affecting the subject property. I further certify that there are no encroachments of adjoining buildings or structures onto said land nor overlap of buildings or structures from said land other than as follows: none; that adequate ingress and egress to the subject property are provided by West Shady Grove Road and Story Road, as shown on the survey, the same being paved, dedicated public rights of way; that the location of all improvements on the subject property is in accord with all applicable zoning laws, regulating the use of the subject property and with all applicable laws containing minimum setback provisions and covenants and restrictions of record; that the subject property does not serve any adjoining property for drainage, ingress and egress or for any other purpose; and that the subject property is not in a flood plain (said property is located within an area having a Zone Designation of "C", as shown by Map No. 00450, with a date of identification of September 30, 1993, for Community No. 480180); this survey is made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established by ALTA and ACSM in 1999 and meets the accuracy and requirements of an Urban Survey, as defined therein, with accuracy and precision requirements modified to meet current minimum angular and linear tolerance requirements of the state in which the subject property is located.

June 22, 2000

J. L. LANE

REGISTERED PROFESSIONAL LAND SURVEYOR



INFORMATION NOTES:

1. 25' building line, 15' utility easement, 10' sight easement and 5' sidewalk easement as shown on the plat recorded in Volume 2000129, Page 3567, Map Records, Dallas County, Texas. Shown on survey.

2. Property subject to terms, provisions, conditions and easements contained in instrument filed March 21, 2000, recorded in Volume 2000056, Page 869, Map Records, Dallas County, Texas.

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
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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. 561; SWR# 81826

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 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? 05/02/1997	<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.

Alan Vaughan

Applicant Signature (By: Alan Vaughan, Senior Vice President-Risk Management and Human Resources)

8/24/2010

Date

Before me Teresa Casarez the undersigned authority, on this day personally appeared
Name of Notary

Alan Vaughan, Senior Vice President- Risk and signed this Municipal Setting Designation Application.
Management and Human Resources

Sworn, subscribed and signed before me in the County of Dallas, State of Tx, on the 20th day of August, 2010

TCEQ-20149 June 2007



Teresa Casarez