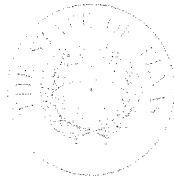


Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 6, 2011

Mr. David Toone, Manager  
FPA/PinPoint Mykawa, LLC  
675 Bering, Suite 550  
Houston, Texas 77057

RE: Municipal Setting Designation (MSD) Certificate for Gulf Metals  
Industries Landfill Site, 6712 Telean Street; MSD No. 165

Dear Mr. Toone:

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) 239-2960 or via e-mail ([Richard.Goldsmith@tceq.texas.gov](mailto:Richard.Goldsmith@tceq.texas.gov)).

Sincerely,

A handwritten signature in black ink, appearing to read "R. Stuart Goldsmith".

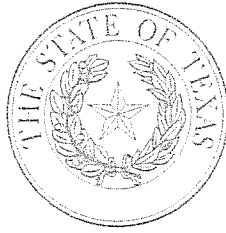
R. Stuart Goldsmith, Project Manager  
VCP-CA Section  
Remediation Division

RSG/mdh

Enclosure: MSD No. 165 (original)

cc: Mr. Pete Silkworth, VCP No. 1430 Project Manager, Remediation Division,  
MC-221

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



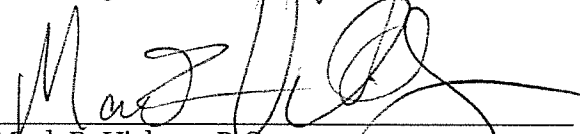
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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 (MSD) for MSD No. 165, in the City of Houston, 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 18<sup>th</sup> day of July, 2011

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

ms0165  
Exhibit "A"

**METES AND BOUNDS DESCRIPTION  
"DESIGNATED PROPERTY"**

**18.592 ACRES IN THE  
G. WILGUS SURVEY, ABSTRACT NO. 1127  
J.M. SWISHER SURVEY, ABSTRACT NO. 1278  
W.T. MCNEEL SURVEY, ABSTRACT NO. 1692  
WM. J. LOVETT SURVEY, ABSTRACT NO. 526  
HARRIS COUNTY, TEXAS**

A 18.592-ACRE (809,856 SQUARE FEET) TRACT OF LAND SITUATED IN THE G. WILGUS SURVEY, ABSTRACT NO. 1127, J.M. SWISHER SURVEY, ABSTRACT NO. 1278, W.T. MCNEEL SURVEY, ABSTRACT NO. 1692, AND WM. J. LOVETT SURVEY, ABSTRACT NO. 526, HARRIS COUNTY, TEXAS, BEING OUT OF THAT CALLED 140.826-ACRE TRACT DESCRIBED AS TRACT 1 IN DEED TO FPA/PINPOINT HOBBY, LLC AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER 20070147235 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, AND BEING ALL OF A CALLED 8.52-ACRE TRACT DESCRIBED IN A DEED TO ISADORE AND ESTHER ROBINSON AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER B849280 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, AND A CALLED 6.24-ACRE TRACT DESCRIBED IN A DEED TO ISADORE AND ESTHER ROBINSON AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER B849280 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, AND A CALLED 1.38-ACRE TRACT DESCRIBED IN A DEED TO ISADORE AND ESTHER ROBINSON HAS RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER B849299 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, AND A PORTION OF TELEAN STREET, SAID 18.592-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS. COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE NO. 4204 STATE PLANE GRID COORDINATES (NAD83) AND MAY BE BROUGHT TO THE SURFACE BY APPLYING THE FOLLOWING COMBINED SCALE FACTOR OF 0.99987863945):

**BEGINNING** at a 3/4-inch iron rod with EHRA cap found marking the southwest corner of a called 5-acre tract described in a deed to Leonard Holt Tozer, Jr. as recorded under Harris County Clerk's File Number R708328 of the Official Public Records of Real Property, and being the most southerly northwest corner of said Tract 1 and an interior corner of the herein described tract, having the coordinates X=3,142,636.64 and Y=13,793,030.48;

- (1) **THENCE** North 87°14'28" East 178.72 feet, along the common line of said called 5-acre tract and said Tract 1 to the most easterly northeast corner of the herein described tract, having the coordinates X=3,142,815.13 and Y=13,793,039.08;
- (2) **THENCE** South 03°12'02" East 481.64 feet, over and across said Tract 1 to a point for corner, having the coordinates X=3,142,842.02 and Y=13,792,558.25;
- (3) **THENCE** South 27°08'36" West 196.62 feet, to a point in the common line between said Tract 1 and a called 2.30-acre tract described in a deed to Paul Gregory Garza as recorded under Harris County Clerk's File Number L909196 of the Official Public Records of Real Property, and being the most easterly southeast corner of the herein described tract, having the coordinates X=3,142,752.32 and Y=13,792.383.30;
- (4) **THENCE** South 87°21'29" West 79.39 feet, along the common line of said called 2.30-acre tract and said Tract 1 to a point in the east line of said called 6.24-acre tract, and being the northwest corner of said called 2.30-acre tract, having the coordinates X=3,142,673.03 and Y=13,792.379.64;

18.592 Acres  
G. Wilgus Survey, A-1127  
J.M. Swisher Survey, A-1278  
W.T. McNeel Survey, A-1692  
Wm. J. Lovett Survey, A- 526

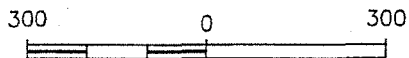
- (5) **THENCE** South 03°12'02" East, along the common line of said called 2.30-acre tract and said called 6.24-acre tract, at 336.77 feet passing a PK-nail in asphalt found in the north right-of-way line of Telean Street (based on a variable width), from which a found 3/4-inch iron pipe bears North 24°19'30" East 9.02 feet, and continuing for a total distance of 365.03 feet to a point in the south right-of-way line of said Telean Street, and being the most southerly southeast corner of the herein described tract, having the coordinates X=3,142,693.41 and Y=13,792,015.22;
- (6) **THENCE** South 86°19'49" West 249.74 feet, along the south right-of-way line of Telean Street to a point in the east right-of-way line of the G.C. & S.F. Railroad (based on a width of 100-feet), and being the southwest corner of the herein described tract, having the coordinates X=3,142,444.21 and Y=13,791,999.24;
- (7) **THENCE** North 16°28'30" West, along the east right-of-way line of said G.C. & S.F. Railroad, at 31.95 feet passing a 3/4-inch iron rod with cap stamped "KMS Surveying" found in the north right-of-way line of said Telean Street marking the southwest corner of said called 1.38-acre tract, and continuing for a total distance of 1,647.23 feet to a railroad spike in a gravel road found marking the northwest corner of said called 8.52-acre tract and the southwest corner of a called 6.562-acre tract described in a deed to Houston Lighting and Power Company as recorded in Volume 1137, Page 128 of the Harris County Deed Records, having the coordinates X=3,141,977.12 and Y=13,793,578.65;
- (8) **THENCE** North 87°14'28" East 627.98 feet, along the common line of said called 6.52-acre tract and said called 8.52-acre tract to a 5/8-inch iron rod with Baseline cap found marking the northeast corner of said called 8.52-acre tract and of the herein described tract, having the coordinates X=3,142,604.29 and Y=13,793,608.87;
- (9) **THENCE** South 03°12'02" East, at 15.00 feet passing a 3/4-inch iron rod with EHRA cap found marking the northwest corner of said called 5-acre tract, and continuing for a total distance of 579.37 feet to the **POINT OF BEGINNING** and containing 18.592 acres (809,856 square feet) of land. This description accompanies an Exhibit, prepared by KMS Surveying, LLC and dated September 18, 2009.

**KMS SURVEYING, LLC**

Kevin Drew McRae, R.P.L.S.  
Texas Registration No. 5485  
2550 Gray Falls Drive, Suite 215  
Houston, Texas 77077  
281-598-0000



Date: 8/13/2009 gw Revised to change boundary 9/18/09 gmw  
Job No: 1403-0901  
File No: X:\1400\1403-0901\documents\technical\1403-0901-EHPC01.doc



CALLED 6.62 ACRES  
SHELL PIPELINE  
VOLUME 2367 PAGE 1, H.C.D.R.  
TEPPCO CRUDE PIPELINE, LP.  
H.C.C.F. NO. W869637  
O.P.R.O.R.P.

CALLED 6.562 ACRES  
H.L. & P. CO.  
VOL.1137 PG.128  
H.C.D.R.

BLAS HERRERA SURVEY  
A-320

X=3,141,977.12  
Y=13,793,578.65

FND 5/8" IR  
W/BASELINE CAP  
X=3,142,804.29  
Y=13,783,608.87

FND RAILROAD SPIKE  
IN GRAVEL ROAD

21' X 25' VALVE BOX EASEMENT  
HOUSTON PIPE LINE COMPANY  
VOLUME 1260, PAGE 241  
H.C.D.R.

FND 3/4" IR  
W/EHRA CAP (CM)

CALLLED 5 ACRES  
LEONARD HOLT  
TOZER, JR.  
H.C.C.F. NO. R708328  
O.P.R.O.R.P.

15' ROADWAY EASEMENT  
VOLUME 256, PAGE 42  
H.C.D.R.

15' EASEMENT  
HOUSTON PIPELINE CO.  
VOLUME 637, PAGE 373  
H.C.D.R.

WM. STINDE SURVEY  
A-1495

G. WILGUS SURVEY  
A-1127

G.C. & S.F. RAILROAD  
WYKAMA ROAD  
(60' R.O.W.)  
(100' R.O.W.)

PIPELINE EASEMENT  
(NOT TO EXCEED 25' WIDE)  
HOUSTON PIPE LINE COMPANY  
VOLUME 1263, PAGE 16  
H.C.D.R.

CALLLED 8.52 ACRES  
ISADORE AND ESTHER ROBINSON  
H.C.C.F. NO. B849280  
O.P.R.O.R.P.

W.A. WHEELDON SURVEY  
A-1629

**LEGEND**

- H.C.D.R. HARRIS COUNTY DEED RECORDS
- H.C.C.F. NO. HARRIS COUNTY CLERK'S FILE NUMBER
- IP IRON PIPE
- IR IRON ROD
- O.P.R.O.R.P. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY
- R.O.W. RIGHT-OF-WAY
- SQ.FT. SQUARE FEET
- W/ WITH
- MW MONITORING WELL

LINE	BEARING	DISTANCE
L1	N 87°14'28" E	178.72'
L2	S 03°12'02" E	481.64'
L3	S 27°08'36" W	196.62'
L4	S 87°21'29" W	79.39'
L5	S 03°12'02" E	365.03'
L6	S 86°19'49" W	249.74'
L7	N 87°14'28" E	627.98'
L8	S 03°12'02" E	579.37'

WELL#	EASTING (X)	NORTHING (Y)
MW3	3,142,646.59	13,792,578.50
MW4	3,142,617.68	13,792,907.62
MW6	3,142,393.52	13,792,284.27
MW7	3,142,389.99	13,792,295.02
MW9	3,142,264.92	13,792,858.03
MW10	3,142,647.28	13,792,568.15
MW11	3,142,640.72	13,792,558.95
MW12	3,142,644.99	13,792,542.65
MW25	3,142,621.17	13,792,908.03
MW26	3,142,832.06	13,792,560.74

**NOTES:**

- THE BASIS OF BEARINGS SHOWN HEREON IS REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, 1983, SOUTH CENTRAL ZONE, AS DERIVED FROM GPS OBSERVATIONS.
- THE COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE NO. 4204 STATE PLANE GRID COORDINATES, NORTH AMERICA DATUM OF 1983 (NAD 83) 2001 ADJUSTMENT, AND MAY BE CONVERTED TO GRID BY APPLYING A COMBINED PROJECT SCALE FACTOR OF 0.99987863945.



*Kevin Drew McRae*  
9/18/09

FND 3/4" IR  
W/KMS CAP  
X=3,142,444.21  
Y=13,791,889.24

Called 6.24 ACRES  
ISADORE AND  
ESTHER ROBINSON  
H.C.C.F. NO. B849280  
O.P.R.O.R.P.

Called 1.38 ACRES  
ISADORE AND  
ESTHER ROBINSON  
H.C.C.F. NO. B849280  
O.P.R.O.R.P.

X=3,142,842.02  
Y=13,792,558.25

X=3,142,752.32  
Y=13,792,383.30

X=3,142,673.03  
Y=13,792,379.64

CALLLED 2.30 ACRES  
PAUL GREGORY  
GARZA  
H.C.C.F. NO. L909196  
O.P.R.O.R.P.

TELEAN STREET (VARIABLE WIDTH R.O.W.)

FND PK NAIL IN ASPHALT  
FND 3/4" IP BEARS:  
N 24°19'30" E, 9.02'

X=3,142,693.41  
Y=13,792,015.22

WM. J. LOVETT SURVEY  
A-526

**KMS Surveying, LLC**

2550 GRAY FALLS - SUITE 215  
HOUSTON, TEXAS 77077  
281-598-0000

EXHIBIT  
"DESIGNATED PROPERTY"  
18.592 ACRES (809,856 SQ.FT.)  
G. WILGUS SURVEY, A-1127  
J.M. SWISHER SURVEY, A-1278  
W.T. MCNEEL SURVEY, A-1692,  
WM. J. LOVETT SURVEY, A-526  
HARRIS COUNTY, TEXAS

DATE: SEPTEMBER 18, 2009	SCALE: 1" = 300'
PROJECT No. 51403-0901	SHEET 1 OF 1

MSD No. 165  
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 <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 #1430		
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> GVing)?	<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? 8 / 26 / 92	<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 *David B. Toone*

Date 2-28-2011

Before me Jennifer R. Finlay the undersigned authority, on this day personally appeared David B. Toone Name of Applicant and signed this Municipal Setting Designation Application. Name of Notary

Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 28th day of February, this month of February, 2011.

