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MSD 5  
↑  
Cert

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 22, 2005

Mr. Chuck Epperson  
Brownfield Stewardship Fund  
9442 Capital of Texas Highway North, Ste 500  
Austin, TX 78759

RE: Certification of Municipal Setting Designation Application for the former  
Fishburn Cleaners, 3200 Ross Avenue, Dallas, TX

Dear Mr. Epperson:

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 512/239-2268.

Sincerely,

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

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

Enclosure

# Texas Commission on Environmental Quality



## Municipal Setting Designation Certificate 005

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 the former Fishburn Cleaners property, 3200 Ross 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 16<sup>th</sup> day of December, 2005.

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

Glenn Shankle  
Executive Director  
Texas Commission on Environmental Quality

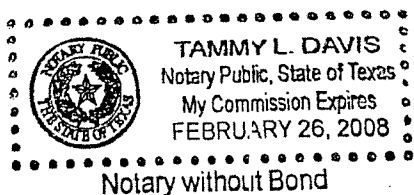
STATE OF TEXAS  
TRAVIS COUNTY

BEFORE ME, on this the 16<sup>th</sup> day of December, 2005, personally appeared Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16<sup>th</sup> day of December, 2005

A handwritten signature in black ink, appearing to read "Tammy L. Davis", written over a horizontal line.

Notary Public in and for the State of Texas



26109

## PROPERTY DESCRIPTION

Being a tract of land situated in the John Grigsby Survey, Abstract No. 495 Dallas County, Texas and being part of a tract of land described in a deed to Fishburn-Oriental Dyeing & Dry Cleaning, recorded in Volume 807, Page 614, of the Deed Records of Dallas County, Texas and being part of a tract of land described in a deed to Fishburn-Oriental Dyeing & Dry Cleaning, recorded in Volume 694, Page 342, of the Deed Records of Dallas County, Texas being all of a tract of land described in a deed to Fishburn-Oriental Dyeing & Dry Cleaning Co. recorded in Volume 95230, Page 01132, of the Deed Records of Dallas County, Texas and being more particularly described by metes and bounds as follows:

Beginning at a 1/2" iron rod found at the intersection of the southeast right of way line of Ross Avenue (80' right of way) and the northeast right of way line of Pavillion Street (40' right of way) for the west corner of this tract:

Thence North 44 degrees 20 minutes 30 seconds East, with said southeast right of way line, a distance of 385.37 feet, to a point in a building being the north corner of said Fishburn-Oriental Dyeing & Dry Cleaning Company tract and being the west corner of a tract of land described in a deed to Jerry C. Moreno recorded in Volume 91114, Page 5144 of the Deed Records of Dallas County, Texas;

Thence South 45 degrees 17 minutes 59 seconds East, a distance of 164.94 feet to a point in a building on the northwest right of way line of Vann Court (variable width right of way) being the east corner of said Fishburn-Oriental Dyeing & Dry Cleaning Company tract and being the south corner of said Moreno tract:

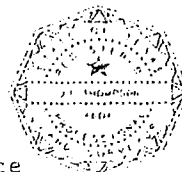
Thence South 44 degrees 28 minutes 57 seconds West, with said northwest right of way line, a distance of 235.38 feet, to a chiseled "X" found for corner:

Thence South 44 degrees 20 minutes 30 seconds West, with said northwest right of way line, a distance of 150.85 feet, to a chiseled "X" set being the intersection of said northwest right of way line and the northeast right of way line of Pavillion Street being the south corner of said Fishburn-Oriental Dyeing & Dry Cleaning Company tract:

Thence North 45 degrees 00 minutes 00 seconds West, with said northeast right of way line, a distance of 164.37 feet, to the Point Of Beginning containing 63,478 square feet or 1.457 acres of land

I hereby certify to Southwest Land Title Co., Chicago Title Insurance Co., Van Court at Ross, Inc., 3200 Ross Technology Center Limited Partnership, and Lazarus Property Corporation that on the 12th Day of May 2000:

(a) This survey was made on the ground as per the field notes shown on this survey and correctly shows (i) the boundaries and areas of the Property and the size, location and type of buildings and improvements thereon (if any) and the distance therefrom to the nearest facing exterior property lines of the Property, (ii) the location of all rights-of-way, easements and any other matters of record (or of which I have knowledge or have been advised, whether or not of record) affecting the Property, (iii) all abutting dedicated public streets providing access to the Property together with the width and name thereof, and (iv) all other significant items on the Property; (b) except as shown on this survey, there are no (i) intrusions upon the Property by improvements on adjacent property, (ii) protrusions on adjacent property, streets or alleys by any improvements on the Property, (iii) party walls, or (iv) conflicts or protrusions; (c) adequate ingress to and egress from the Property is provided by Ross Avenue, the same being paved, dedicated public right-of-way maintained by the City of Dallas, (d) all required building set back lines on the Property are located as shown hereon; (e) no part of the Property lies within a flood plain or flood prone area or a flood way of any body of water; (f) the metes and bounds description of the Property as shown on this survey forms a mathematically closed figure, and (g) this survey and the professional service rendered in connection herewith conforms in all respects to the current Texas Society of Professional Surveyors Standards and Specifications for a Category IA Condition II Survey. I expressly understand and agree that Southwest Land Title Co., Chicago Title Insurance Company, Van Court at Ross, Inc., 3200 Ross Technology Center Limited Partnership, and Lazarus Property Corporation will rely and are entitled to rely on this plat and survey as being true and accurate in all respects and upon this Certificate as being true and accurate



26109

052667

MUNICIPAL SETTING DESIGNATION  
ADJOINING RIGHT-OF-WAY DESCRIPTION

Being a portion of Ross Avenue (80 foot R.O.W.), between Hall Street (50 foot R.O.W.) and Pavillion Street (40 foot R.O.W.), being all of said Pavillion Street, between said Ross Avenue and Vann Court (15.5 foot R.O.W.), being also a portion of said Vann Court between said Pavillion Street and said Hall Street, all being dedicated R.O.W. for street purposes and being more particularly described as follows:

Beginning at a point for corner in the southeast right-of-way line of said Ross Avenue, said point being the north corner of a tract of land conveyed to Fishburns BSF LLC by deed recorded in Volume 2005046, Page 5960 of the Deed Records of Dallas County, Texas, same being the west corner of a tract of land conveyed to Jerry C. Moreno by deed recorded in Volume 91114, Page 5144 of the Deed Records of Dallas County, Texas;

Thence South 44 Degrees 20 Minutes 30 Seconds West, along the northwest line of said Fishburns BSF LLC tract and the southeast right-of-way line of said Ross Avenue, a distance of 385.37 feet to a point for corner at the intersection of the southeast right-of-way line of said Ross Avenue and the northeast right-of-way line of said Pavillion Street, said point being the west corner of said Fishburns BSF LLC tract;

Thence South 45 Degrees 00 Minutes 00 Seconds East, along the southwest line of said Fishburns BSF LLC tract and the northeast right-of-way line of said Pavillion Street, a distance of 164.37 feet to a point for corner at the intersection of the northeast right-of-way line of said Pavillion Street and the northwest right-of-way line of said Vann Court, said point being the south corner of said Fishburns BSF LLC tract;

Thence North 44 Degrees 20 Minutes 30 Seconds East, along the southeast line of said Fishburns BSF LLC tract and the northwest right-of-way line of said Vann Court, a distance of 150.85 feet to a point for corner;

Thence North 44 Degrees 28 Minutes 57 Seconds East, along the southeast line of said Fishburns BSF LLC tract and the northwest right-of-way line of said Vann Court, a distance of 235.38 feet to a point for corner, said point being the east corner of said Fishburns BSF LLC tract, same being the south corner of said Moreno tract;

Thence South 45 Degrees 17 Minutes 59 Seconds East, a distance of 15.50 feet to a point for corner, said point being in the southeast right-of-way line of said Vann Court;

Thence South 44 Degrees 28 Minutes 57 Seconds West, along the southeast right-of-way line of said Vann Court, a distance of 235.30 feet to a point for corner;

Thence South 44 Degrees 20 Minutes 30 Seconds West, along the southeast right-of-way line of said Vann Court, a distance of 191.01 feet to a point for corner in the southwest right-of-way line of said Pavillion Street;

Thence North 45 Degrees 00 Minutes 00 Seconds West, along the southwest right-of-way line of said Pavillion Street, a distance of 259.88 feet to a point for corner in the northwest right-of-way line of said Ross Avenue;

Thence North 44 Degrees 20 Minutes 30 Seconds East, along the northwest right-of-way line of said Ross Avenue, a distance of 424.96 feet to a point for corner, said point being in the northwest right-of-way line of said Ross Avenue;

Thence South 45 Degrees 17 Minutes 59 Seconds East, a distance of 80.00 feet to the Point of Beginning and containing 47,195.31 square feet or 1.0834 acres of land.

*Bryan Connally*

BRYAN CONNALLY  
R.P.L.S. NO. 5513

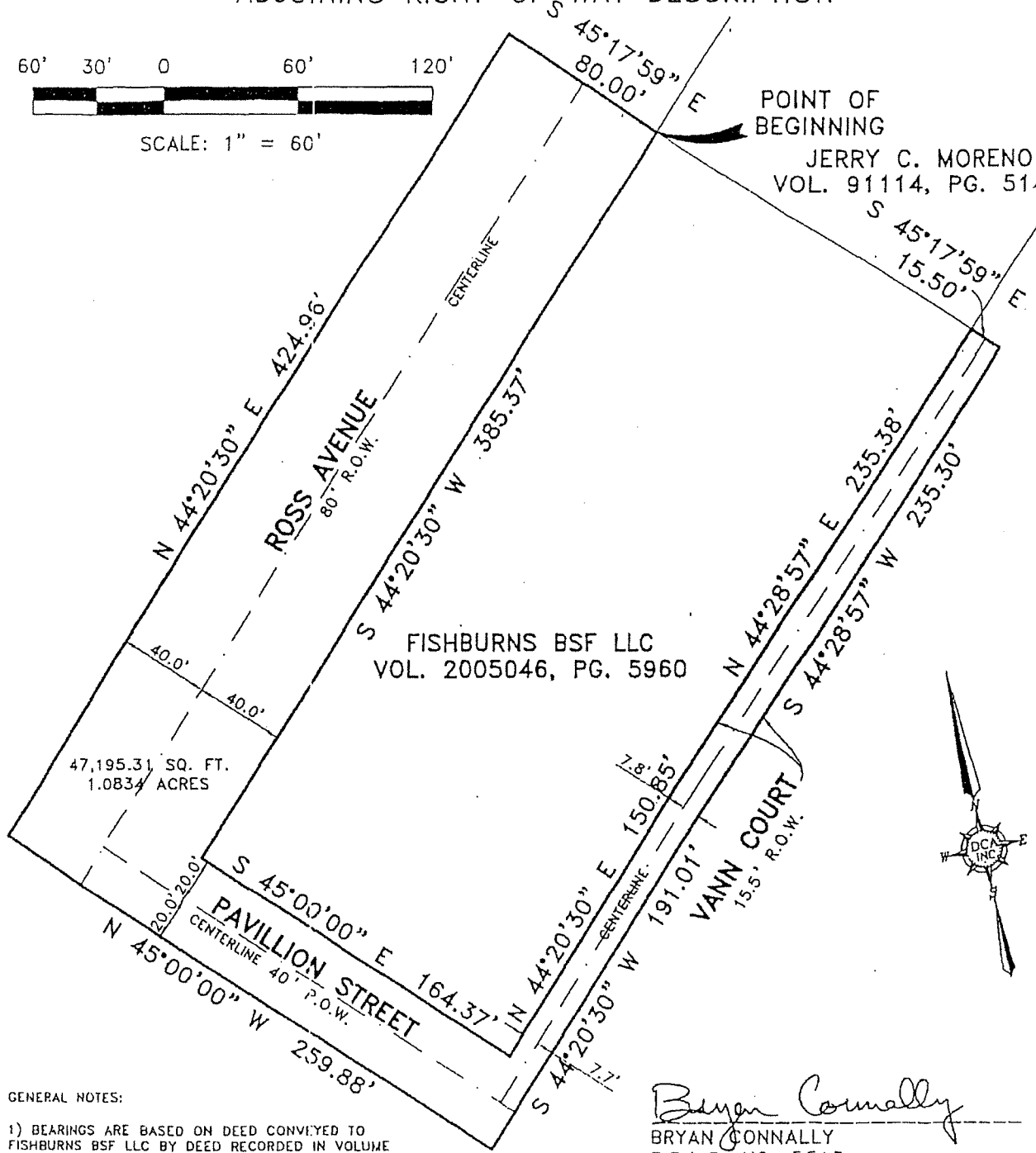
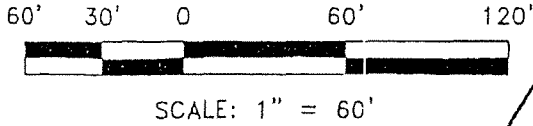


DOUG CONNALLY & ASSOCIATES, INC.

11545 PAGEMILL RD. #700 DALLAS, TEXAS 75243 • 458 HILLCREST BULPHUR SPRINGS, TEXAS 75412  
PH 214-349-5465 FAX 2 4-349-2216 PH 903-436-1200 FAX 903-436-1266

SHEET 1 OF 2  
JOB NO. 0506415-1  
DRAWN BY: EDDIE

MUNICIPAL SETTING DESIGNATION  
ADJOINING RIGHT-OF-WAY DESCRIPTION



GENERAL NOTES:

1) BEARINGS ARE BASED ON DEED CONVEYED TO FISHBURNS BSF LLC BY DEED RECORDED IN VOLUME 2005046, PAGE 5960, DEED RECORDS, DALLAS COUNTY, TEXAS.

*Bryan Connally*  
BRYAN CONNALLY  
R.P.L.S. NO. 5513



**DOUG CONNALLY & ASSOCIATES, INC.**

11545 PAGEMILL RD. #200 DALLAS, TEXAS 75243 • 438 HILLCREST BULPHUR SPRINGS, TEXAS 75412  
PH 214-348-9485 FAX 214-349-2216 PH 903-436-1700 FAX 903-436-1268

SHEET 2 OF 2  
JOB NO. 0506415-1  
DRAWN BY: EDDIE

# MSDApp 010



## Municipal Setting Designation Application Form

<b>TCEQ Office Use Only:</b>	Date Add. Info Req. 10/12/05
Application No: MSDAPP 010	Date Add. Info Rec'd 10/12/05
Date Received: 10/05/05	Date Certified: / /
	Date Denied: / /

### Municipal Setting Designation Eligibility Criteria:

[Reset form](#)

Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at <a href="http://txsdc.tamu.edu/lpepp/txpopest.php">http://txsdc.tamu.edu/lpepp/txpopest.php</a> .)	<input 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 that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at <a href="http://txsdc.tamu.edu/lpepp/txpopest.php">http://txsdc.tamu.edu/lpepp/txpopest.php</a> .)	<input type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
Municipality name: City of Dallas	Population: 1,188,580	
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 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 type="radio"/> Ms. Charles Epperson		
Title: Executive Director		
Company: Brownfields Stewardship Fund		
Mailing Address: 9111A Research Boulevard		
City: Austin	State: Texas	Zip: 78758
Telephone: 512/425-2090	Telefax: 512/425-2099	
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 type="radio"/> Yes	<input type="radio"/> No <sup>2</sup>
<sup>2</sup> Do not submit application.		

### Notice Information:

On or before the date of submission of the application to TCEQ, was notice provided to:		
a) each municipality:		
1) where the proposed MSD is located?	<input type="radio"/> Yes	<input type="radio"/> No <sup>3</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 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 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 type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
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 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		

TCEQ-20149

1

**RECEIVED**

OCT - 5 2005

**WOLUNTARY CLEANUP SECTION**

**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.

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 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? 07 / 00	<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 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 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 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 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 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.

Charles Epercon  
Applicant Signature

10/5/05  
Date

Before me ELIZABETH K. HARGIS the undersigned authority, on this day personally appeared  
Name of Notary  
CHARLES EPERCON and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of TRAVIS, State of TX, on the 5<sup>th</sup>  
 day of OCTOBER, this month of 2005

Elizabeth K. Hargis  
 My Commission  
 Expires 6/11/2006

