

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 25, 2008

Mr. Marc Feldman, President
Jomarc Property Corp.
565 Fifth Avenue, Fourth Floor
New York, New York 10017-2413

Re: Municipal Setting Designation (MSD) Certificate for Jomarc Property Corp.,
1215 W. Crosby Road and 1310 Electronics Drive, Carrollton, Dallas County TX;
MSD No. 81

Dear Mr. Feldman:

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".

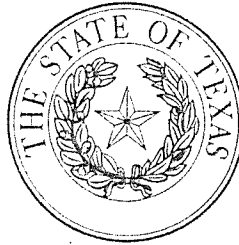
Mike Frew, P.G.
Environmental Cleanup Section II
Remediation Division

MF/sr

Enclosure

cc: Mark Riggle, Project Manager VCP 1815, Remediation Division, MC-221

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, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 81, in the City of Carrollton, 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 18th day of November, 2008.

A handwritten signature in black ink, appearing to read "Mark R. Vickery", written over a horizontal line.

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

EXHIBIT A

Page 1 of 4

**77.317 Acres
S.A. & M.G. R.R. Survey
Abstract No. 1418
City of Carrollton
Dallas County, Texas**

BEING 77.317 acres of land situated in the City of Carrollton, in the S.A. & M.G. R.R. Survey, Abstract No. 1418, Dallas County, Texas and being a part of LOT 1R, BLOCK 1, SGS THOMSON MICROELECTRONICS ADDITION No. 1, an addition to the City of Carrollton according to the plat thereof recorded in Volume 2005054, Page 252, Map Records, Dallas County, Texas (MRDCT); all of that certain called 15.4914 acre tract of land described in a deed to JOMARC PROPERTY CORP., recorded in Volume 2003234, Page 9536, Deed Records of Dallas County, Texas (DRDCT); a part of Crosby Road West (100' wide public Right-of-way); a part of Hutton Drive (a variable width public Right-of-way) and a part of Monetary Lane (60' wide Public Right-of-way) dedicated by the above described plat of SGS Thomson Microelectronics Addition No. 1 and said 77.317 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at the most Northerly Northeast corner of said Lot 1R on the West line of said JOMARC tract and same being the Southeast corner of Lot 3, Block 1 of said SGS Thomson Microelectronics Addition No. 1;

THENCE: North 0 deg. 15 min. 02 sec. West, along the common line of said Lot 3 and said JOMARC tract, at 274.55 feet, passing the Northeast corner of said Lot 3, the Northwest corner of said JOMARC tract and the South Right-of-way line of the above mentioned Crosby Road West, continuing on across said Crosby Road West for a total distance of 374.55 feet to a point for corner on the North Right-of-way of said Crosby Road West;

THENCE: South 89 deg. 41 min. 00 sec. East (Reference Bearing), along the North Right-of-way line of said Crosby Road West, a distance of 992.42 feet to a point for corner;

THENCE: South 0 deg. 14 min. 35 sec. East, departing from the North Right-of-way of said Crosby Road West, at 100.00 feet, passing the South Right-of-way line of said Crosby Road West, the Northeast corner of said JOMARC tract and the Northwest corner of that certain tract of land conveyed to K&D Investment Corp. by deed recorded in Volume 72244, Page 2253, DRDCT, continuing along the East line of said JOMARC tract, the West line of said K&D tract and the West line of a tract of land conveyed to Southland Bedding Corporation by deed recorded in Volume 72039, Page 0986, DRDCT, for a total distance of 780.00 feet to the Southeast corner of said JOMARC tract and same being a Northerly outside ell corner of said Lot 1R;

THENCE: South 0 deg. 15 min. 00 sec. East, along the common line of said Lot 1R and said Southland tract, a distance of 21.59 feet to the Southwest corner of said Southland tract and the Northerly inside ell corner of said Lot 1R;

THENCE: South 89 deg. 41 min. 00 sec. East, along the Easterly North line of said Lot 1R, the South line of said Southland tract and the South lines of those certain tracts of land conveyed to Johnson Service Corporation (Vol. 67036, Pg. 1464, DRDCT), Overhead Door Corporation (Vol. 79177, Pg. 2420, DRDCT) and McEvoy Trust No. 1 (Vol. 78236, Pg. 2095, DRDCT), a total distance of 1,380.46 feet to a point for corner at the most easterly northeast corner of said Lot 1R and same being the northwest corner of Lot 2, Block 1 of said SGS Thomson Microelectronics Addition No. 1;

THENCE: South 01 deg. 28 min. 31 sec. East, along the common line of said Lot 1R and said Lot 2, a distance of 290.21 feet to the most Easterly Southeast corner of said Lot 1R and same being the Northwesterly inside ell corner of said Lot 2;

THENCE: South 84 deg. 10 min. 18 sec. West, along the common line of said Lot 1R and said Lot 2, a distance of 219.90 feet to a point for corner;

THENCE: South 30 deg. 23 min. 00 sec. East, along the common line of said Lot 1R and said Lot 2, a distance of 31.15 feet to a point for corner on the former North Right-of-way line of Monetary Lane which was quit claimed to Merchant Properties by Quitclaim Deed recorded in Volume 2004233, Page 3829, DRDCT;

THENCE: South 83 deg. 57 min. 01 sec. West, along the former North Right-of-way line of said Monetary lane, a distance of 10.98 feet to the former Northwest corner of said lane;

THENCE: South 30 deg. 23 min. 00 sec. East, along the former West Right-of-way line of said lane, a distance of 351.76 feet to a point for corner on the existing Right-of-way line of said Monetary Lane, dedicated by the above mentioned plat recorded in Volume 2005054, Page 252, MRDCT. Said point being in a non-tangent curve to the right, having a radius of 60.00 feet and a chord that bears South 66 deg. 36 min. 42 sec. East – 119.94 feet;

THENCE: Along the East Right-of-way line of said Monetary Lane, with said curve to the right, through a central angle of 183 deg. 41 min. 04 sec. and along an arc distance of 192.35 feet to a point of reverse curve. Said curve to the left having a radius of 25.00 feet and a chord that bears South 02 deg. 34 min. 27 sec. East – 23.33 feet;

THENCE: Along the East Right-of-way line of said Monetary Lane, with said curve to the left, through a central angle of 55 deg. 37 min. 40 sec. and along an arc distance of 24.27 feet to a point for corner at the end of said curve;

THENCE: South 30 deg. 23 min. 00 sec. East, continuing along the existing East Right-of-way line of said Monetary Lane, a distance of 4.22 feet to the Southwest corner of said Lot 2 on the South line of said SGS THOMSON MICROELECTRONICS ADDITION No. 1 and same being the North line of a 75-foot drainage easement dedicated to the State of Texas by document recorded in Volume 2303, Page 92, DRDCT;

THENCE: South 83 deg. 57 min. 01 sec. West, departing from the East Right-of-way line of said Monetary Lane, at 65.85 feet, passing the West Right-of-way line of said lane and continuing along the common line of said Lot 1R and said 75-foot drainage easement, at 2733.97 feet, passing the East Right-of-way line of Hutton Drive (variable width right-of-way) and continuing for a total distance of 2824.42 feet to a point for corner on the West Right-of-way line of said Hutton Drive;

THENCE: North 0 deg. 24 min. 34 sec. West, along the West Right-of-way line of Hutton Drive, a distance of 98.65 feet to a point for corner at the beginning of a non-tangent curve to the left having a radius of 990.50 feet and a chord that bears North 07 deg. 47 min. 12 sec. West – 100.53 feet;

THENCE: Along continuing along the West line of said Hutton Drive, with said curve to the left, through a central angle of 05 deg. 49 min. 04 sec. and along an arc distance of 100.58 to a point for corner at the end of said curve;

THENCE: North 10 deg. 41 min. 44 sec. West, continuing along the West line of said Hutton Drive, a distance of 100.00 feet to a point at the beginning of a curve to the right, having a radius of 1009.50 feet and a chord that bears North 05 deg. 33 min. 09 sec. West – 180.99 feet;

THENCE: Along continuing along the West line of said Hutton Drive, with said curve to the right, through a central angle of 10 deg. 17 min. 10 sec. and along an arc distance of 181.23 to a point for corner at the end of said curve;

THENCE: North 0 deg. 24 min. 34 sec. West, continuing along the West line of said Hutton Drive, a distance of 918.32 feet to a point at the beginning of a curve to the right, having a radius of 1009.50 feet and a chord that bears North 0 deg. 59 min. 01 sec. East – 49.08 feet;

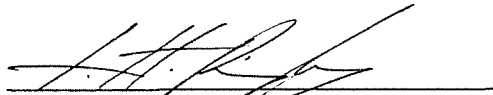
THENCE: Along continuing along the West line of said Hutton Drive, with said curve to the right, through a central angle of 02 deg. 47 min. 09 sec. and along an arc distance of 49.08 to a point for corner at the end of said curve;

THENCE: North 88 deg. 15 min. 58 sec. East, departing from the West Right-of-way line of said Hutton Drive, at 154.19 feet, passing the East Right-of-way line of said Hutton drive and the Northwest corner of said Lot 1R and same being the Southwest corner of the above mentioned Lot 3, continuing along the common line of said Lot 1R and Lot 3 for a total distance of 405.66 feet to the POINT OF BEGINNING and containing 3,367,932 square feet or 77.317 acres of land.

Note:

1. The Reference Bearing for the above prepared metes & bounds description is South 89 deg. 41 min. 00 sec. East along the South Right-of-way line of Crosby Road West as described in a deed to JOMARC PROPERTY CORP, recorded in Volume 2003234, Page 9536, Deed Records of Dallas County, Texas.
2. This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.
3. A drawing exhibit of equal date, accompanies this metes & bounds description

Prepared Under My Hand and Seal,
This 3rd Day of December, 2007.



Lawrence H. Ringley, R.P.L.S.
State of Texas, No. 4701



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 ³	<input 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.		
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 / 20 / 04	<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: Marc Feldman Date: 8-11-08

Before me Victoria Mccool the undersigned authority, on this day personally appeared Marc Feldman and signed this Municipal Setting Designation Application.

Sworn, subscribed and signed before me in the County of NEW YORK, State of NY, on the 12th day of August, this month of 2008.

TCEQ-20149 June 2007

VICTORIA MCCOOL
NOTARY PUBLIC - State of New York
 Reg. No. 02MC8102414
 Qualified in Kings County
 Commission Expires December 8, 2011