

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

June 2, 2009

Mr. George Busceme
Eastham Forge, Inc.
P.O. Box 3927
Beaumont, TX 77704

Re: Municipal Setting Designation (MSD) Certificate for Eastham Forge, Inc.,
930 Franklin St., Beaumont, Jefferson County, TX; MSD No. 92

Dear Mr. Busceme:

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.
QA/Technical Support Section
Remediation Division

MF/sr

Enclosure

Texas Commission on Environmental Quality



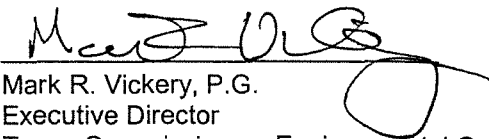
Municipal Setting Designation

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. 92, in the City of Beaumont, 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 20th day of May, 2009.


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

'A'

Fittz & Shipman

INC

Consulting Engineers and Land Surveyors

**FIELD NOTE DESCRIPTION
FOR A
0.5835 ACRE TRACT
OUT OF THE
NOAH TEVIS SURVEY, ABSTRACT 52
JEFFERSON COUNTY, TEXAS
DECEMBER 18, 2007**

That certain 0.5835 acre tract out of the Noah Tevis Survey, Abstract 52, Jefferson County, Texas, and being comprised of two tracts conveyed to D. E. Johnson as recorded in Clerks File No. 2005005005 and 2006033549 of the Official Public Records of Jefferson County, Texas, said 0.5835 acres being more particularly described by metes and bounds as follows:

Note: The Basis of Bearings is the northeasterly line of a called 1.327 (Tract One) conveyed to Eastham Forge, Inc. as recorded in Clerks File No. 2006037081 of the Official Public Records of Jefferson County, Texas and a southwesterly line of the said 0.5835 acre tract having been called North 58°43'01" West 195.34 feet.

BEGINNING at a ½" iron rod found in the south right-of-way line of Milam Street and the southeasterly line of the Beaumont Wharf & Terminal Railroad (25' wide) for the most northerly northeast corner of the said 1.327 acre tract and the most northerly west corner of the said 0.5835 acre tract from which a ½" iron rod found at the intersection of the said south right-of-way line of Milam Street and the west right-of-way line of Archie Street for the northeast corner of a tract conveyed to Eastham Forge, Inc. as recorded in Film code 102-31-1676 of the Real Property Records of Jefferson County, Texas bears North 81°41'55" East 209.14 feet;

THENCE South 63°56'08" East along the northeasterly line of the said 0.5835 acre tract and the said southeasterly line of the Beaumont Wharf & Terminal Railroad a distance of 253.21 feet (called South 83°58'00" East 251.45 feet) to a ½" capped iron rod set in the said west right-of-way line of Archie Street for the northeast corner of the said 0.5835 acre tract;

THENCE South 08°14'57" East along the said west right-of-way line of Archie Street and the east line of the said 0.5835 acre tract a distance of 162.32 feet (called South 40°32'00" West 157.10 feet) to a "X" set in concrete at the intersection of the said west right-of-way line of Archie Street and the north right-of-way line of Franklin Street for the southeast corner of the said 0.5835 acre tract from which a ½" iron rod found in the south right-of-way line of Franklin Street bears South 08°14'57" East 61.11 feet (called 61.11 feet);

THENCE South 81°29'25" West along the said north right-of-way line of Franklin Street and the south line of the said 0.5835 acre tract a distance of 163.65 feet (called 163.75 feet) to a fence post found in a east line of the said 1.327 acre tract for the southwest corner of the said 0.5835 acre tract;

FITZ & SHIPMAN, INC.
Page 1 of 2
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THENCE along the easterly line of the said 1.327 acre tract and the westerly line of the said 0.5835 acre tract with the following courses and distances:

North 08°21'25" West a distance of 107.94 feet (called North 08°27'56" West 112.14 feet-CF# 2006037081 and North 40°15'00" West 101.60 feet-Volume 1452, Page 294 Second Tract) to a 1" iron pipe found for an angle point;

South 60°19'54" East a distance of 33.95 feet (called South 60°31'12" East 33.98 feet-CF# 2006037081) to a 2 ½" iron pipe found for an angle point;

North 31°31'11" East a distance of 122.83 feet (called North 31°31'33" East 122.73 feet-CF# 2006037081) to a 2" iron pipe found for an angle point;

THENCE North 58°43'01" West along the northeasterly line of the said 1.327 acre tract and the southwesterly line of the said 0.5835 acre tract a distance of 195.32 feet (called North 58°43'01" West 195.32 feet) to the *POINT OF BEGINNING* and containing 0.5835 acres of land, more or less.

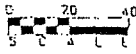
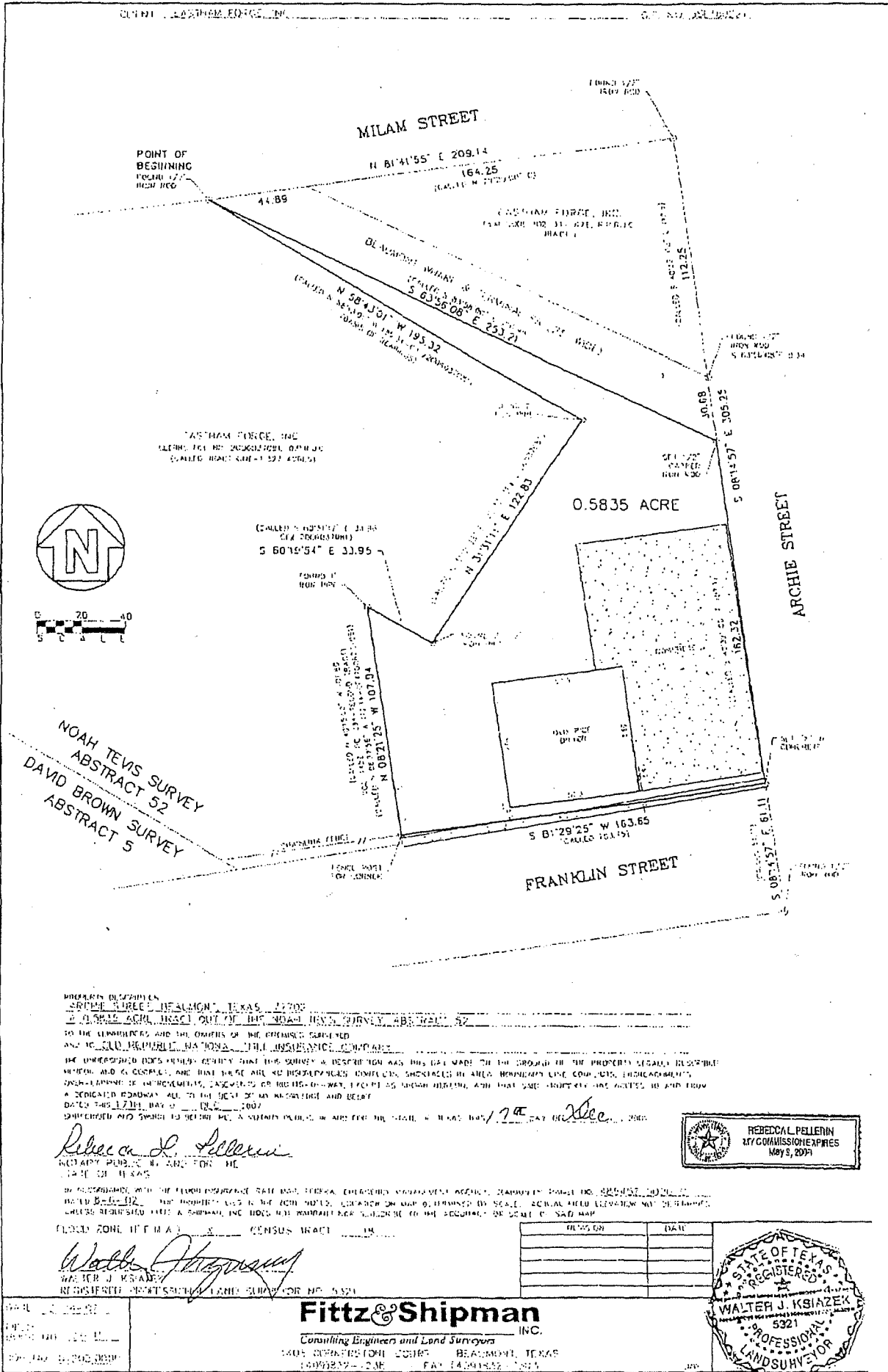
This description is based on a survey and plat made by Fittz & Shipman, Inc. during December 2007.


Walter J. Ksiazek
Registered Professional Land Surveyor No. 5321



FITZ & SHIPMAN, INC.
Page 2 of 2
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Plat & Description

Bayd Wells



NOAH TEVIS SURVEY
ABSTRACT 52
DAVID BROWN SURVEY
ABSTRACT 5

PROPERTY DESCRIPTION:
 SOURCE: PUBLIC RECORDS, BEAUMONT, TEXAS, 27200
 A 0.5835 ACRE INTERSECTION OF THE NOAH TEVIS SURVEY ABSTRACT 52
 TO THE CORNERS AND THE OWNERS OF THE PREMISES REFERRED
 AND TO SAID PUBLIC RECORDS, THE UNDERSIGNED CERTIFY
 THE UNDERSIGNED DOES HEREBY CERTIFY THAT THE SURVEY & DESCRIPTION WAS THIS DAY MADE ON THE GROUND IN THE PRESENCE OF NEARBY
 WITNESSES AND A COPY OF THE SAME ARE ON HAND AT THE OFFICE OF THE UNDERSIGNED, SHERIFF OF THE COUNTY OF BEAUMONT, TEXAS, AND THAT THE
 UNDERSIGNED IS A PROFESSIONAL LAND SURVEYOR, LICENSE NO. 5321, ISSUED BY THE BOARD OF LAND SURVEYORS OF THE STATE OF TEXAS, AND THAT THE
 UNDERSIGNED HAS NOT BEEN CONVICTED OF ANY CRIME INVOLVING FRAUD OR PERJURY, AND THAT THE UNDERSIGNED HAS NOT BEEN DEBARRED FROM
 EXERCISING THE RIGHTS OF A PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS.
 DATED THIS 17TH DAY OF MAY, 2009.
 SUBSCRIBED AND SWORN TO before me, a Notary Public in and for the State of Texas, on this 17th day of May, 2009.

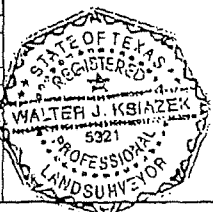
Rebecca L. Pelletier
 REBECCA L. PELLETIER, Notary Public in and for the State of Texas

REBECCA L. PELLETIER
 NOTARY PUBLIC
 MAY 5, 2009

IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP, FEDERAL EMERGENCY MANAGEMENT AGENCY, DETERMINED THAT THE SUBJECT PROPERTY IS IN FLOOD ZONE VEHICULAR USE ONLY (VUE) AND IS NOT A SPECIAL FLOOD HAZARD AREA. SPECIAL FLOOD HAZARD INFORMATION IS AVAILABLE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY. FOR MORE INFORMATION, CONTACT THE FEDERAL EMERGENCY MANAGEMENT AGENCY AT 1-800-352-7635.

FLOOD ZONE: VUE
 CENSUS TRACT: 14
 WALTER J. KSIARZEK
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5321

REVISION	DATE



Fittz & Shipman
 INC.
 Consulting Engineers and Land Surveyors
 1405 GARDNER FORT ROAD BEAUMONT, TEXAS
 4096237-2346 FAX 4096237-2347

'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 type="radio"/> Yes, when? / /	<input checked="" 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):

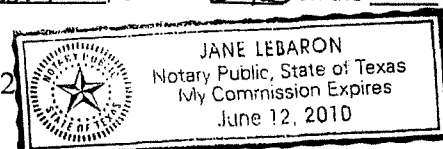
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed 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.

X George J. Busceme
Applicant Signature

11-18-08
Date

Before me Jane LeBaron the undersigned authority, on this day personally appeared
GEORGE J. BUSCEME and signed this Municipal Setting Designation Application.
Name of Notary
Name of Applicant

Sworn, subscribed and signed before me in the County of Jefferson, State of Texas on the 18th day of NOVEMBER, this month of NOVEMBER, 2008.



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

June 2, 2009

Ms. Tina Broussard, City Clerk
P.O. Box 3827
Beaumont, TX 77704

Re: Municipal Setting Designation Certification (MSD) for Eastham Forge, Inc.,
930 Franklin St., Beaumont, Jefferson County, TX; MSD No. 92

Dear Ms. Broussard:

As required by TEX HEALTH & SAFETY CODE §361.807(a)(2), enclosed is a copy of the MSD dated May 20, 2009. The City of Beaumont passed a ordinance (Ordinance No. 05-031) in support of this MSD application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of the MSD Certificate.

If you have any questions, please contact me at 512/239-5872.

Sincerely,

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

Mike Frew, P.G.
QA/Technical Support Section
Remediation Division

MF/sr

Enclosure

Texas Commission on Environmental Quality



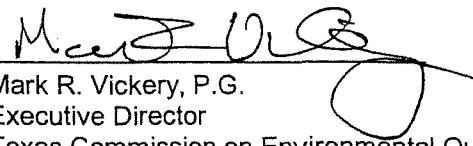
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EXECUTED this 20th day of May, 2009.


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

'A'

Fittz & Shipman

INC

Consulting Engineers and Land Surveyors

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OUT OF THE
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FITZ & SHIPMAN, INC
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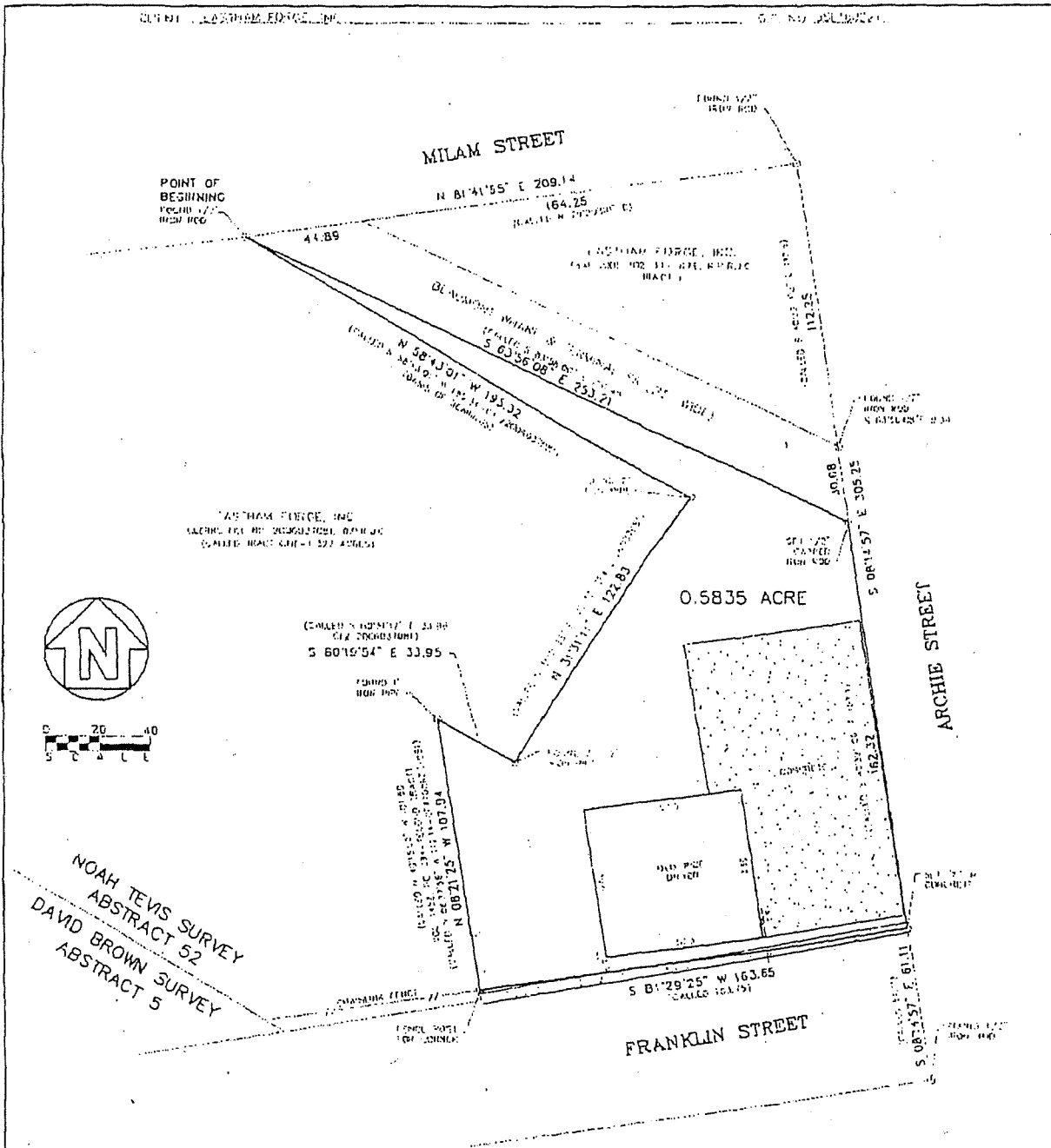
This description is based on a survey and plat made by Fittz & Shipman, Inc. during December 2007.


Walter J. Ksiazek
Registered Professional Land Surveyor No. 5321



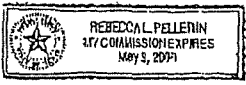
FITZ & SHIPMAN, INC.
Page 2 of 2
Project No. 07205.0000
Plat & Description

Bayou Wells



PROPERTY DESCRIPTION:
 THREE THREEEIGHT, BEAUMONT, TEXAS, 17705
 A PLAT OF LAND, KNOWN AS THE "NOAH TEVIS SURVEY, ABSTRACT 52"
 TO THE BOUNDARIES AND THE DIMENSIONS OF THE PREMISES DESCRIBED
 AND TO THE INTERESTS OF THE NATIONAL FIRE INSURANCE COMPANY
 THE UNDERSIGNED HAS CAREFULLY EXAMINED THE SURVEY AND DESCRIPTION HAS THIS DAY MADE TO THE PROPERTY LEGALLY DESCRIBED
 HEREIN AND IS CONVINCED THAT THE SAME ARE CORRECTLY SHOWN AS SHOWN IN SAID BOUNDARY LINE, CORNER, ENCROACHMENT,
 ENCUMBRANCE, EMBODIMENT, EASEMENT OR RIGHT-OF-WAY, ERECTED AS SHOWN HEREIN, AND THAT SAID PROPERTY HAS ACRES IN AND FROM
 A DEDICATED ROADWAY, ALL TO THE BEST OF HIS KNOWLEDGE AND BELIEF
 DATED THIS 17TH DAY OF _____ 2007
 SUBSCRIBED AND SWORN TO before me, a Notary Public, in and for the State of Texas, this 17th day of Dec 2007

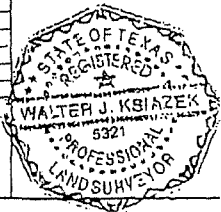
Rebecca L. Pellerin
 Notary Public in and for the State of Texas



IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP, FEDERAL EMERGENCY MANAGEMENT AGENCY, DRAINAGE DISTRICT NO. 021102E, DATED 07/12/00, THE FLOOD HAZARD ZONE FOR THE PREMISES SHOWN ON MAP IS DETERMINED BY SCALE. ACTUAL FLOOD ZONE MAY BE DIFFERENT. UNLESS REQUESTED WITH A SEPARATE FLOOD HAZARD MAP, THIS MAP IS NOT TO BE USED FOR FLOOD HAZARD ZONE DETERMINATION.

FLOOD ZONE: IF F.M.A. 5 CENSUS TRACT 18
Walter J. Ksiazek
 Registered Professional Land Surveyor No. 5321

REVISION	DATE



Fittz & Shipman INC.
 Consulting Engineers and Land Surveyors
 1405 DORRINGTON COURT BEAUMONT, TEXAS 77705
 (409) 832-1234 FAX (409) 832-1235

'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 type="radio"/> Yes, when? / /	<input checked="" 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.

X George J. Busceme
Applicant Signature

11-18-08
Date

Before me Jane Lebaron the undersigned authority, on this day personally appeared
GEORGE J. BUSCEME and signed this Municipal Setting Designation Application.
Name of Notary
Name of Applicant

Sworn, subscribed and signed before me in the County of Jefferson, State of Texas on the 18th day of NOVEMBER, this month of NOVEMBER, 2008.

