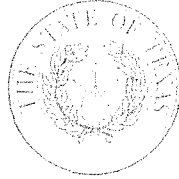


MSD ce

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 16, 2005

Mr. W. R. Miller  
Managing Partner  
Neches Street Properties, LLC  
P.O. Box 630  
Beaumont, TX 77706

RE: Certification of Municipal Setting Designation Application for Neches Street Property, 1110 Neches Street, Beaumont, TX

Dear Mr. Miller:

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 or via e-mail at ([cclarke@tceq.state.tx.us](mailto:cclarke@tceq.state.tx.us)).

Sincerely,

A handwritten signature in cursive script that reads "Chet Clarke".

Chet Clarke, Manager  
Technical Support Section  
Remediation Division

Enclosure

# Texas Commission on Environmental Quality



## Municipal Setting Designation Certificate 006

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 Neches Street Properties, LLC, 1110 Neches Street, 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 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

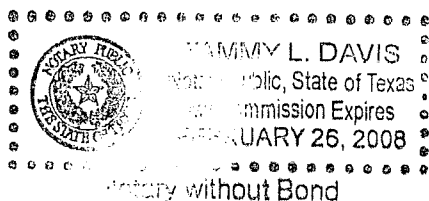
STATE OF TEXAS  
TRAVIS COUNTY

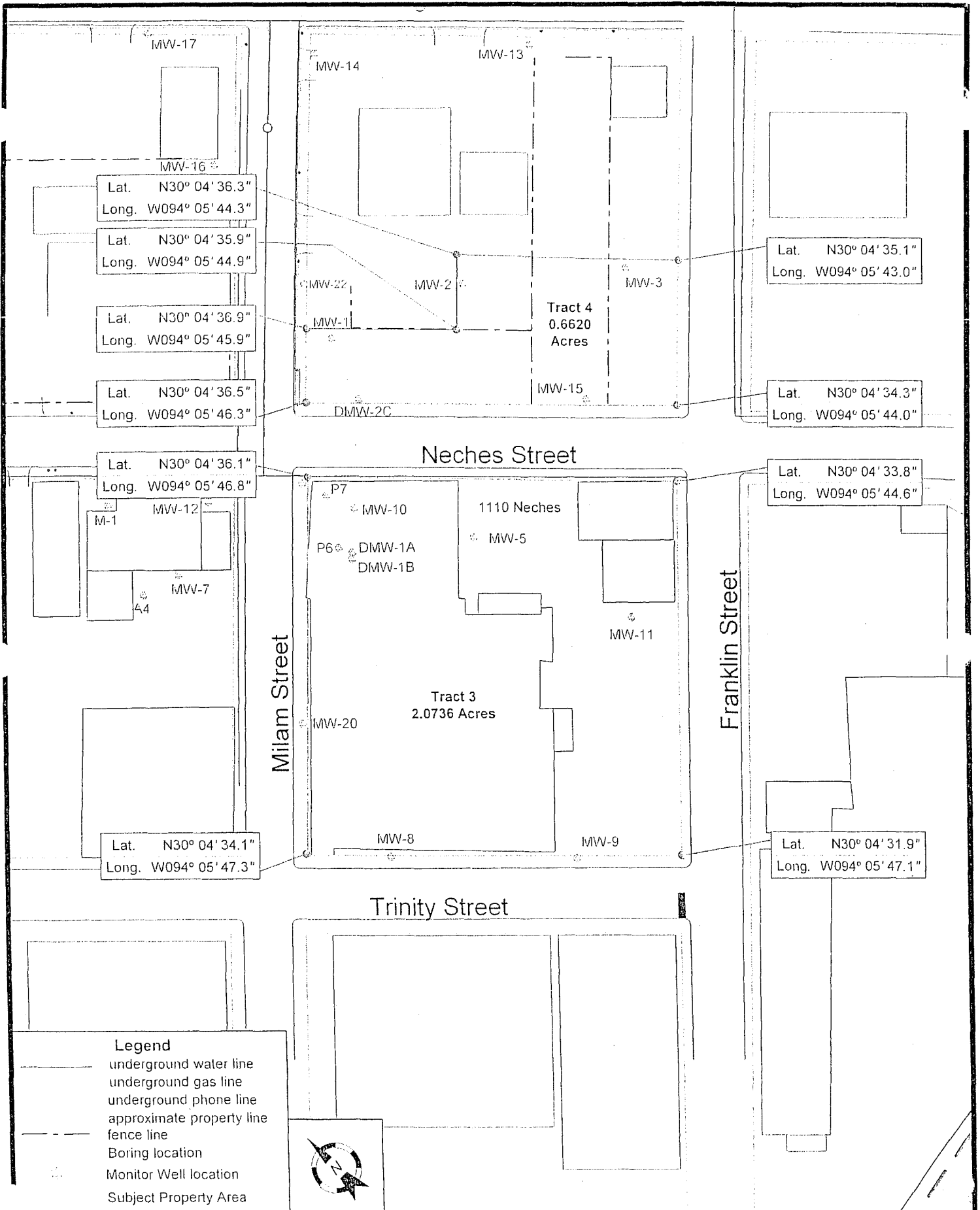
BEFORE ME, on this the 16<sup>th</sup> day of December, 2005, personally appeared Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same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





**Legend**

- underground water line
- - - underground gas line
- ⋯ underground phone line
- · - · approximate property line
- ⋯ fence line
- ⊙ Boring location
- ⊙ Monitor Well location
- ⊙ Subject Property Area



**"EXHIBIT A"**

## Tract 4

April 23, 1997

Legal Description: 0.6620 Acre Tract or Parcel of Land  
Noah Tevis Survey, Abstract No. 52  
Beesumont, Jefferson County, Texas

BEING a 0.6620 acre tract or parcel of land situated in the Noah Tevis Survey, Abstract No. 52, Jefferson County, Texas and being out of and a part of Lots 359-361 and a portion of Lot 366 of Block 53, Original Townsite of Beesumont, Texas per plat as recorded in Volume 448, Page 249, Deed Records Jefferson County, Texas and being the same tract of land as conveyed by James Parkhurst, et al to Leo Babel, Bob Miller and Robert L. Blackwell, recorded in Film Code 102-60-1872, Official Public Records of Real Property, Jefferson County, Texas and being out of and a part of the same tract of land as conveyed by Carl Waldman, et al to Leo Babel, Bob Miller and Robert L. Blackwell recorded in Film Code 102-79-1925, Official Public Records of Real Property, Jefferson County, Texas Said 0.6620 acre tract being more particularly described as follows:

*Note: All bearings are based on the most Northerly South line of that certain 0.870 acre tract of land conveyed by Franklin Steel, Inc. to Babel, Miller and Blackwell, Ltd., recorded in Clerk File No: 96-9617414, Official Public Records of Real Property, Jefferson County, being North 85°25'00" East;*

BEGINNING at a 5/8" iron rod set in the Northwest right-of-way line of Franklin Street (based on 60 foot right-of-way width) and at the East corner of said Lot 359 located South 44 deg. 45 min. 42 sec. West a distance of 59.89 feet from a 5/8" iron rod found at the East corner of Lot 358 and being the same tract of land as conveyed by Mrs. Ingram McGurkin to John Fritz Miller recorded in Film Code 104-34-0121, Official Public Records of Real Property, Jefferson County, Texas;

THENCE South 44 deg. 45 min. 42 sec. West along and with the Northwest right-of-way line of said Franklin Street and the Southeast line of said Block 53, same being the Southeast lines of said Lot 359 and Lot 360 a distance of 119.77 feet to a 5/8" iron rod set at the intersection of the Northwest right-of-way line of said Franklin Street and the Northeast right-of-way line of Neches Street (based on 60 foot right-of-way width), same being the South corner of said Block 53 and the South corner of said Lot 360 and South corner of said tract herein described;

Page 2

Legal Description : 0.6620 Acre Tract or Parcel of Land  
Noah Tevis Survey, Abstract No. 52  
Beaumont, Jefferson County, Texas

THENCE North 45 deg. 11 min. 24 sec. West along and with the Northeast right-of-way line of said Neches Street and the Southwest line of said Block 53, same being the Southwest line of said Lot 360, Lot 366 and Lot 361 a distance of 300.61 feet to a 5/8" iron rod set at the intersection of the Northeast right-of-way line of said Neches Street and the Southeast right-of-way line of Milam Street ( based on 60 foot right-of-way width ), same being the West corner of said Block 53 and the West corner of said Lot 361 and the West corner of said tract herein described;

THENCE North 44 deg. 45 min. 42 sec. East along and with the Southeast right-of-way line of said Milam Street and the Northwest line of said Block 53 a distance of 60.09 feet to a metal fence corner at the West corner of Lot 362, said corner being the same tract of land as conveyed by Alvin Clark and wife, Doris Clark to Al Reed and wife, Elizabeth Reed recorded in Film Code 95-9524966, Official Public Records of Real Property, Jefferson County, Texas, same being the North corner of said Lot 361 and an ell corner of said tract herein described;

THENCE South 45 deg. 11 min. 24 sec. East along and with the Northeast line of said Lot 361 and the Southwest line of said Lot 362 and the Southwest line of said Reed tract a distance of 120.48 feet to a railroad spike set at the South corner of said Lot 362 and the East corner of said Lot 361, same being in the Northwest line of Lot 366 and ell corner of said tract herein described;

THENCE North 44 deg. 45 min. 42 sec. East along and with the Northwest line of said Lot 366 and the Northwest line of said Reed tract a distance of 60.04 feet to a 1/2" iron rod found at the East corner of said Lot 362 and the South corner of Lot 363, same being the West corner of that certain tract of land conveyed from Erin Anne Teare Rienstra to Heard, Gogan, Blair and Williams recorded in Film Code 94-9434638, Official Public Records of Real Property, Jefferson County, Texas, and ell corner of said tract herein described;

THENCE South 45 deg. 11 min. 24 sec. East along and with the Northeast line of said Lot 359 a distance of 180.13 feet to the PLACE OF BEGINNING, containing 0.6620 Acres of land, more or less.



"EXHIBIT A"

Tract 3

April 23, 1997

Legal Description : 2.0736 Acre Tract or Parcel of Land  
Noah Tevis Survey, Abstract No. 52  
Beaumont, Jefferson County, Texas

BEING a 2.0736 acre tract or parcel of land situated in the Noah Tevis Survey, Abstract No. 52, Jefferson County, Texas and all of Block 70 of the Original Townsite of Beaumont, Texas per plat as recorded in Volume 448, Page 249, Deed Records Jefferson County, Texas and also being the certain 2.069 acres as conveyed by Rockland Corporation to Leo Babel, D.A. Whitsitt and W.R. Miller recorded in Volume 2219, Page 231, Deed Records Jefferson County, Texas. Said 2.0736 acre tract being more particularly described as follows:

*Note: All bearings are based on the most Northerly South line of that certain 0.870 acre tract of land conveyed by Franklin Steel, Inc. to Babel, Miller and Blackwell, Ltd., recorded in Clerk File No. 96-9617414, Official Public Records of Real Property, Jefferson County as being North 85°25'00" East;*

BEGINNING at a 1/2" iron rod found in the Southeast right-of-way line of Milam Street ( based on 60 right-of-way width ) and the Northeast right-of-way line of Trinity Street ( based on 60 right-of-way width ), and the West corner of said Block 70, same being the West corner of said tract herein described;

THENCE North 44 deg. 45 min. 42 sec. East along and with the Southeast right-of-way line of said Milam Street and the Northeast line of said Block 70 a distance of 300.47 feet to a "X" marked in concrete at the intersection of the Southeast right-of-way line of said Milam Street and the Northwest right-of-way line of Neches Street ( based on 60 right-of-way width ), same being the North corner of said Block 70 and North corner of said tract herein described;

THENCE South 45 deg. 11 min. 24 sec. East along and with the Southwest right-of-way line of said Neches Street and the Northeast line of said Block 70 a distance of 300.61 feet to a "X" marked in concrete at the intersection of the Southwest right-of-way line of said Neches Street and the Northwest right-of-way line of Franklin Street ( based on 60 right-of-way width ), same being the East corner of said Block 70 and the East corner of said tract herein described;

Page 2

Legal Description : 2.0736 Acre Tract or Parcel of Land  
Noah Tevis Survey, Abstract No. 52  
Beaumont, Jefferson County, Texas

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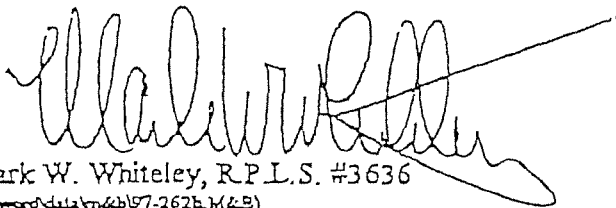
THENCE South 44 deg. 45 min. 42 sec. West along and with the Northwest right-of-way line of said Franklin Street and the Southeast line of said Block 70 a distance of 300.47 feet

to a 5/8" iron rod set at the intersection of the Northeast right-of-way line of said Trinity Street and the Northwest right-of-way line of said Franklin Street, same being the South corner of said Block 70, and the South corner of said tract herein described;

THENCE North 45 deg. 11 min. 24 sec. West along and with the Northeast right-of-way line of said Trinity Street and the Southwest line of said Block 70 a distance of 300.61 feet to the PLACE OF BEGINNING, containing 2.0736 Acres of land, more or less.

Surveyed on April 23, 1997 by Mark W. Whiteley, Registered Professional Land Surveyor No. 3636. This Legal description is being submitted along with a plat based on this survey.

(See Survey Plat - Exhibit "B")



Mark W. Whiteley, R.P.L.S. #3636  
(with record data from 97-2626.M(2B))





## Municipal Setting Designation Application Form

<b>TCEQ Office Use Only:</b> Application No: <i>MSDAP 007</i> Date Received: <i>02/28/05</i>	Date Add. Info Req. <i>4/25/05</i> Date Add. Info Rec'd <i>12/02/2005</i> Date Certified: <i>12/16/2005</i> Date Denied: <i>— / — / —</i>
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Reset form
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**Municipal Setting Designation Eligibility Criteria:**

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/tpepp/txpopest.php">http://txsdc.tamu.edu/tpepp/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/tpepp/txpopest.php">http://txsdc.tamu.edu/tpepp/txpopest.php</a> .)	<input type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
Municipality name: <i>Beaumont, Texas</i>	Population: <i>113,569</i>	
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. <b>Do not submit an application.</b>		

**Applicant and Fee Payment Information:**

Contact Person: <input type="radio"/> Mr. <input type="radio"/> Ms. <i>Bob Miller (W. R. Miller)</i>		
Title: <i>Managing Partner</i>		
Company: <i>Neches Street Properties, LLC</i>		
Mailing Address: <i>855 19th Street P.O. Box 630</i>		
City: <i>Beaumont</i>	State: <i>Texas</i>	Zip: <i>77706 04</i>
Telephone: <i>409 /838-3400</i>	Telefax: <i>1</i>	
E-mail Address:		
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:**

<u>On</u> or <u>before</u> 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		

**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. 718		
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 type="radio"/> Yes, when? 05 / 197	<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):

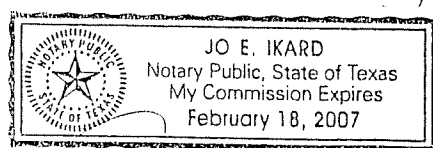
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed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

W. R. Miller  
Applicant Signature

2/16/05  
Date

Before me Jo E. IKARD the undersigned authority, on this day personally appeared  
Name of Notary  
Mr. Bob Miller (W.R. Miller) and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of Jefferson, State of TX, on the 16<sup>th</sup> day of February, 2005



Jo E. Ikard  
TCEQ-20149