

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

August 12, 2010

Mr. William R. Kugel, Jr.
Schottenstein Trustees
1798 Frebis Avenue
Columbus, Ohio 43207

Re: Municipal Setting Designation (MSD) Certificate for Former Ekco/Glaco Facility, 4936 Reading Street, Dallas, Dallas County, Texas; MSD No. 117

Dear Mr. Kugel:

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) 239-2362 or via e-mail (marthur@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Arthur".

Mark Arthur, P.G., Project Manager
VCP-CA Section
Remediation Division

MA/jdm

Enclosure

cc: Ms. Antonieta Arteaga, Project Manager for VCP No. 2047, 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 for MSD No. 117, in the City of Dallas, 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 5th day of August, 2010

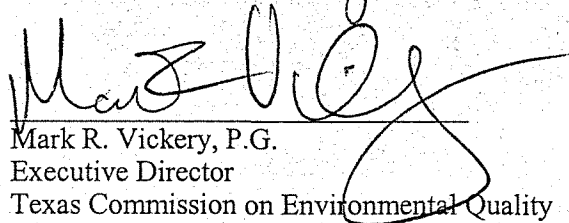

Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

Exhibit "A"
M.S.D. SURVEY

Being a 0.7106 acre tract of land known as Lot 9, Block 5/7695 of West Trinity Industrial District Addition, First Installment, an addition to the City of Dallas, according to the plat thereof recorded in Volume 28, Page 91, Map Records, Dallas County, Texas, and being a portion of Reading Street (60 foot right-of-way) and being more particularly described by metes and bounds as follows:

BEGINNING at a point for corner in the West right-of-way line of Reading Street (60 foot right-of-way) and the Northeast corner of Lot 16 of said West Trinity Industrial District Addition, First Installment;

THENCE South 89 degrees 29 minutes 44 seconds East, a distance of 308.90 feet to a 1/2 inch iron pipe found for corner, said corner being the inside ell corner of Lot 10A of Gideon Addition, an Addition to the City of Dallas, according to the map thereof recorded in Volume 98156, Page 59, Map Records, Dallas County, Texas;

THENCE South 00 degrees 03 minutes 17 seconds West, a distance of 99.72 feet to a 1/2 inch iron rod found for corner at the Northeast corner of Lot 8, Block 5/7695 of West Trinity Industrial District, First Installment, an Addition to the City of Dallas, Dallas County, Texas, according to the map thereof recorded in Volume 28, Page 91, Map Records, Dallas County, Texas;

THENCE North 89 degrees 38 minutes 12 seconds West, a distance of 309.62 feet to a point for corner at the Northeast corner of Lot 17;

THENCE North 00 degrees 27 minutes 58 seconds East, along said West right-of-way line of Reading Street, a distance of 100.48 feet to the POINT OF BEGINNING and containing 30,955.77 square feet or 0.7106 acres of land.



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

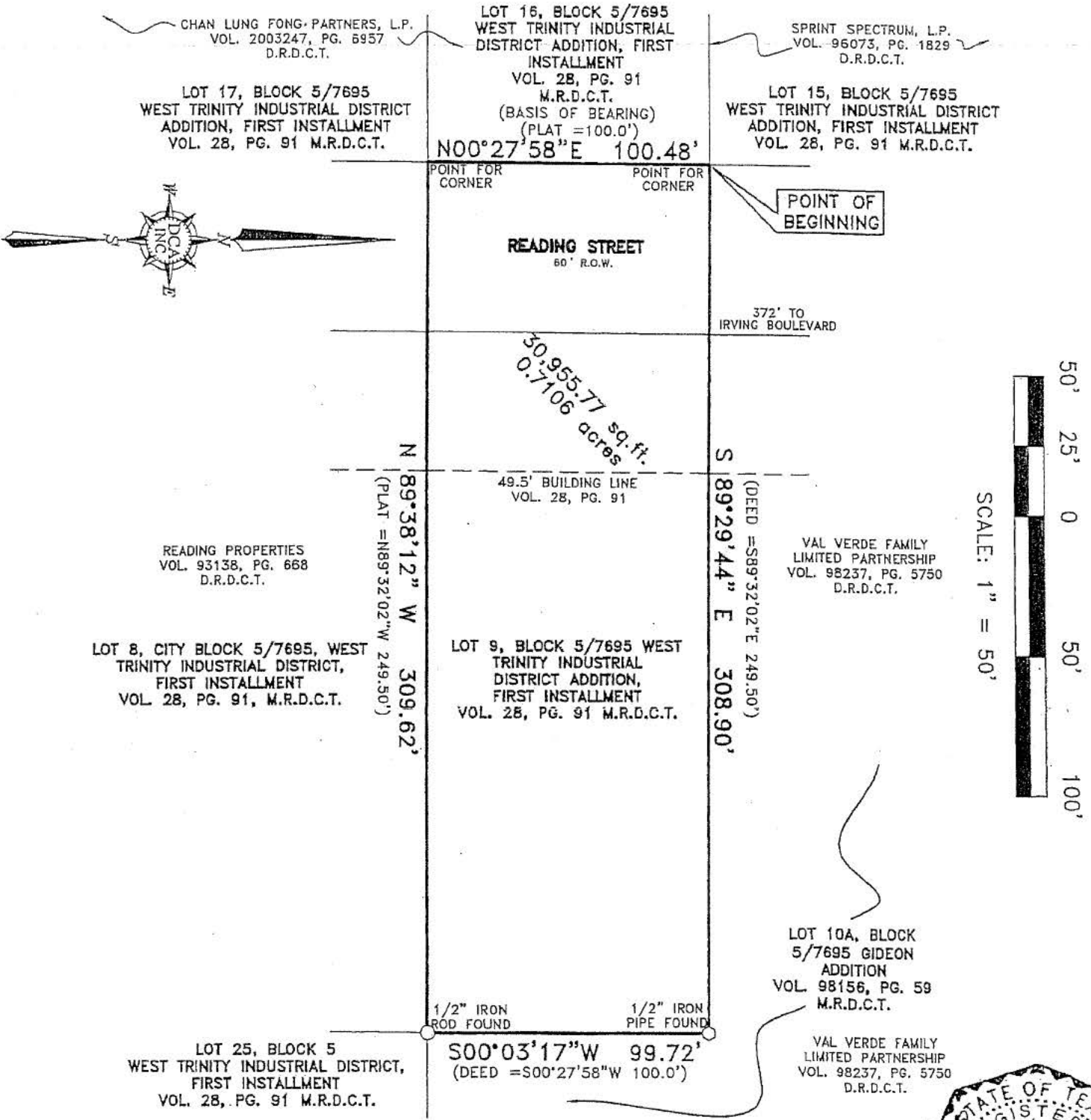
DC&A

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SHEET 1 OF 3
JOB NO. 0607616-1
DRAWN BY: CHRIS

M.S.D. SURVEY



GENERAL NOTES:

1) BEARINGS ARE BASED ON THE GIDEON ADDITION, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 98156, PAGE 59, MAP RECORDS, DALLAS COUNTY, TEXAS.

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

STATE OF TEXAS
REGISTERED
BRYAN CONNALLY
5513
PROFESSIONAL
LAND SURVEYOR



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SHEET 2 OF 3
JOB NO. 0607616-1
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M.S.D. SURVEY

The undersigned Registered Professional Land Surveyor (Bryan Connally) hereby certifies that, (a) this survey and the property description set forth hereon were prepared from an actual on-the-ground survey; (b) such survey was conducted by the Surveyor, or under his direction; (c) all monuments shown hereon actually existed on the date of the survey, and the location, size and type of material thereof are correctly shown; Use of this survey by any other parties and/or for other purposes shall be at User's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. The plat hereon is a correct and accurate representation of the property lines and dimensions are as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries the distances indicated and there are no visible and apparent encroachments or protrusions on the ground.

Executed this 31st day of March, 2008

Bryan Connally

Bryan Connally
Registered Professional Land Surveyor No. 5513



DC & A

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SHEET 3 OF 3
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Exhibit "B"

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.
PST 22900, IHW Corrective Action T1567

Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GW _{mg})?	<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? 01 / 01 / 02	<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 a check mark 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.

[Signature]
Applicant Signature

07-01-10
Date

Before me Patricia Bean the undersigned authority, on this day personally appeared
Name of Notary
William R. Kusel Jr. and signed this Municipal Setting Designation Application.
Name of Applicant

Sworn, subscribed and signed before me in the County of Franklin, State of OH, on the 01 day of July, 2010.



PATRICIA J. BEAN
Notary Public, State of Ohio
My Commission Expires Aug. 28, 2012