

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

November 6, 2009

Mr. Greg Rogers, Legal Counsel for Fountain Parkway, Ltd.
Guida Slavich & Flores, P.C.
750 N. St. Paul Street, Suite 200
Dallas, TX 75201

RE: Municipal Setting Designation (MSD) Certificate for Bollinger Building Fountain Parkway Former ARA Manufacturing, 602 and 906 Fountain Parkway; MSD No. 122

Dear Mr. Rogers:

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) 239-3429 or via e-mail (ssetteme@tceq.state.tx.us).

Sincerely,

A handwritten signature in cursive script that reads "Scott Settemeyer".

Scott Settemeyer, P.G., Project Manager
VCP-CA Section
Remediation Division

DSS/jdm

Enclosure

cc: Mr. Jim Formby, SWR No. 32042, Project Manager, Remediation Division, MC-127

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



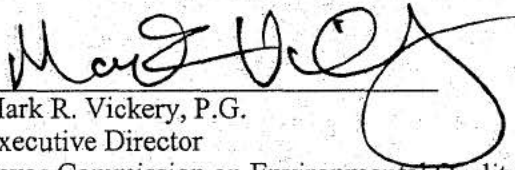
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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. 122, in the City of Grand Prairie, 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.

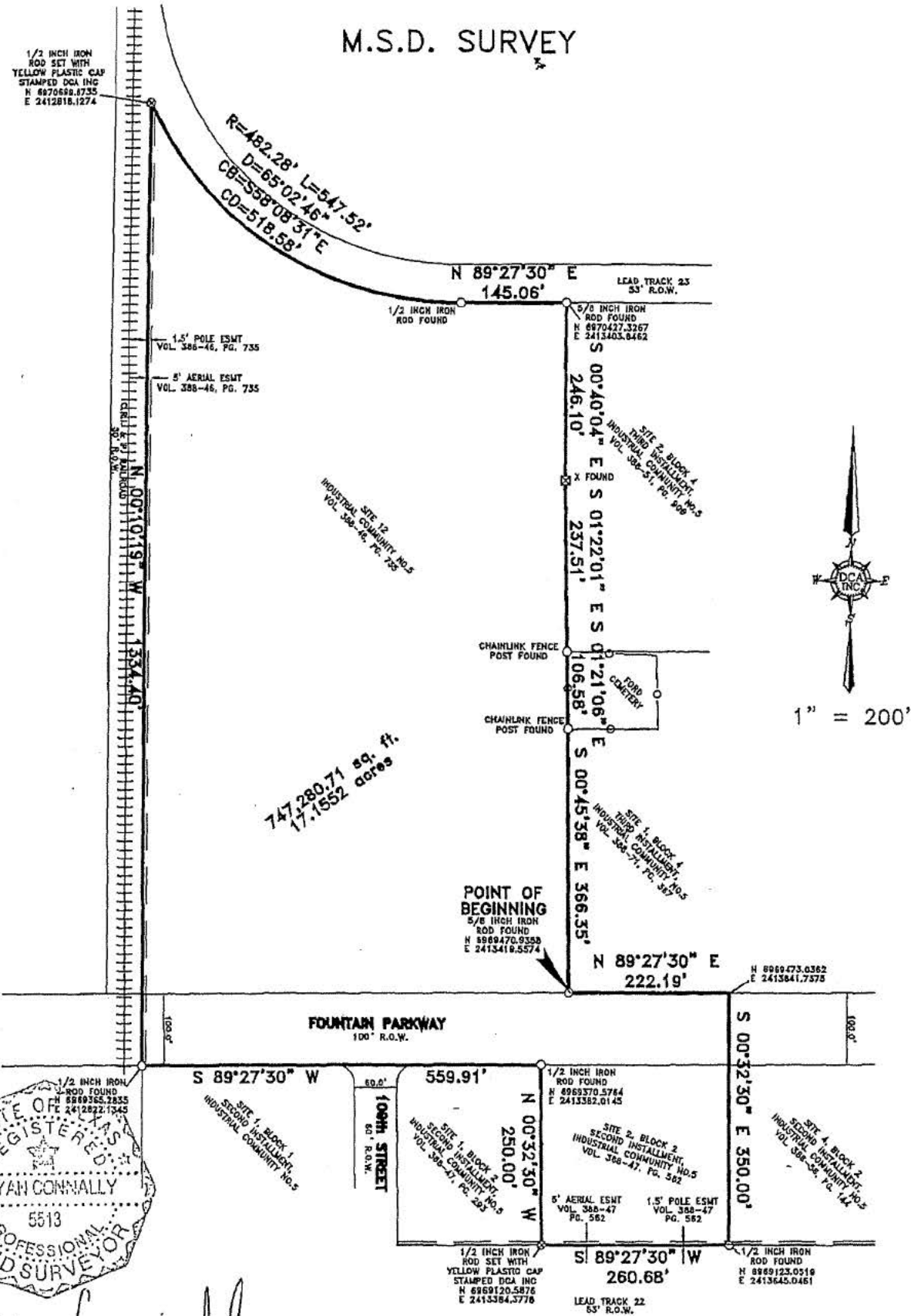
EXECUTED this the 2nd day of November, 2009



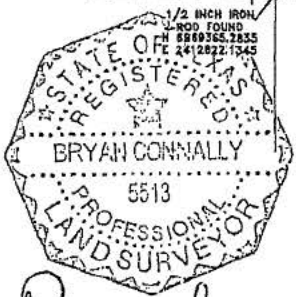
Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

Exhibit "A"

M.S.D. SURVEY



1" = 200'



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

GENERAL NOTES:
 1) BEARINGS ARE BASED ON NAD83 TEXAS NORTH CENTRAL ZONE.

DC&A DOUG CONNALLY & ASSOCIATES, INC.
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SHEET 1 OF 4
 JOB NO. 0707317-1
 DRAWN BY: R.G.

M.S.D. SURVEY

Being all of Site 12 of Great Southwest Industrial District, Industrial Community No. 5, an Addition to the City of Grand Prairie, Tarrant County, Texas, according to the map or plat thereof recorded in Volume 388-46, Page 735, Plat Records, Tarrant County, Texas, and being all of Site 2, Block 2, Second Installment, Industrial Community No.5, Great Southwest Industrial District Addition, an Addition to the City of Grand Prairie, Tarrant County, Texas, according to the map or plat thereof recorded in Volume 388-47, Page 562, Plat Records, Tarrant County, Texas, and being part of Fountain Parkway (100 foot right of way) and being the same tract of land conveyed to Fountain Parkway, Ltd., a Texas limited partnership by Deed recorded in Volume 9377, Page 1248, Deed Records, Tarrant County, Texas and being all of the land conveyed to Fountain Parkway Building Partnership, a Texas general partnership by Deed recorded in Volume 11836, Page 2210, Deed Records, Tarrant County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for corner, said corner being the Southwest corner of Site 1, Block 4, Third Installment, Industrial Community No.5, an Addition to the City of Grand Prairie, Tarrant County, Texas, according to the map or plat thereof recorded in Volume 388-71, Page 367, Plat Records, Tarrant County, Texas, and lying in the North right-of-way line of Fountain Parkway, (100 foot right-of-way);

THENCE North 89 degrees 27 minutes 30 seconds East, along the North line of said Fountain Parkway, a distance of 222.19 feet to a point for corner;

THENCE South 00 degrees 32 minutes 30 seconds East, a distance of 350.00 feet to a 1/2 inch iron rod found for corner at the Southeast corner of said Site 2, Block 2 on the North line of Lead Track 22, (53 foot right-of-way);

THENCE South 89 degrees 27 minutes 30 seconds West, along said North line of Lead Track 22, a distance of 260.68 feet to a 1/2 inch iron rod set with yellow plastic cap stamped DCA INC. at the Southeast corner of Site 1, Block 2, Second Installment, Industrial Community No.5, Great Southwest Industrial District Addition, an Addition to the City of Grand Prairie, Tarrant County, Texas, according to the map or plat thereof recorded in Volume 388-47, Page 293, Plat Records, Tarrant County, Texas;

THENCE North 00 degrees 32 minutes 30 seconds West, along the East line of said Site 1, Block 2, a distance of 250.00 feet to a 1/2 inch iron rod found lying in the South line of said Fountain Parkway, (100 foot right-of-way);

THENCE South 89 degrees 27 minutes 30 seconds West, along the South line of said Fountain Parkway, a distance of 559.91 feet to a 1/2 inch iron rod found at the intersection of said South line of Fountain Parkway with the East line of the Chicago, Rock Island and Pacific Railroad, (50 foot right-of-way);

THENCE North 00 degrees 10 minutes 19 seconds West, along the East line of said railroad, a distance of 1334.40 feet to a 1/2 inch iron rod set with yellow plastic cap stamped DCA INC lying in the South line of Lead Track 23, (53 foot right-of-way), and a nontangent curve to the left, having a radius of 482.28 feet, a delta of 65 degrees 02 minutes 46 seconds and a chord bearing and distance of South 58 degrees 08 minutes 31 seconds East, 518.58 feet;

THENCE along said South line of Lead Track 23 and said curve to the Left, an arc length of 547.52 feet to a 1/2 inch iron rod found;



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SHEET 2 OF 4
JOB NO. 0707317-1
DRAWN BY: R.G.

M.S.D. SURVEY

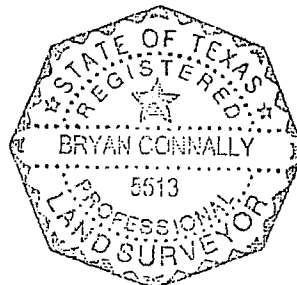
THENCE North 89 degrees 27 minutes 30 seconds East, continuing along said South line of
ad Track 23, a distance of 145.06 feet to a 5/8 inch iron rod found for corner;

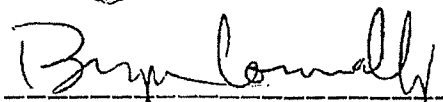
THENCE South 00 degrees 40 minutes 04 seconds East, a distance of 246.10 feet to an "X"
found for corner;

THENCE South 01 degrees 22 minutes 01 seconds East, a distance of 237.51 feet to a fence
post found for corner at the Northwest corner of Ford Cemetery;

THENCE South 01 degrees 21 minutes 06 seconds East, a distance of 106.58 feet to a fence
post found for corner at the Southwest corner of said Ford Cemetery;;

THENCE South 00 degrees 45 minutes 38 seconds East, a distance of 366.35 feet to the
POINT OF BEGINNING and containing 747,280.71 square feet or 17.1552 acres of land.




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

DC&A

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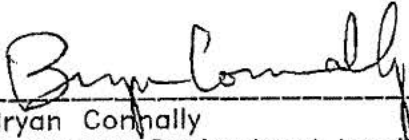
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SHEET 3 OF 4
JOB NO. 0707317-1
DRAWN BY: R.G.

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.

Executed this 2nd day of January, 2008



Bryan Connally
Registered Professional Land Surveyor No. 5513

The logo consists of the letters "DC&A" in a large, bold, serif font. The ampersand is stylized and smaller than the other letters.

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SHEET 4 OF 4
JOB NO. 0707317-1
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Exhibit "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 type="radio"/> Yes	<input type="radio"/> No ³	<input checked="" 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. SWR No. 32042		
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? mid-80s /	<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):

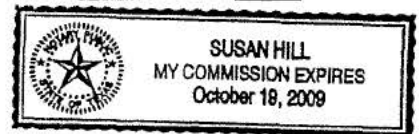
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed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

Date 8-27-09

Before me Susan Hill the undersigned authority, on this day personally appeared
Bryan Rogers Name of Notary
Bryan Rogers Name of Applicant and signed this Municipal Setting Designation Application.

Sworn, subscribed and signed before me in the County of Dallas, State of TX, on the 27th day of August, 2009.



Mina Hill