

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 8, 2018

Dr. Larry Unruh  
Technical Director  
American Plant Food Corporation  
P.O. Box 584  
Galena Park, Texas 77547

Re: Municipal Setting Designation (MSD) Certificate for Former American Plant Food Corporation Facility  
1809 Bennett Clark Road, Nacogdoches, Nacogdoches County, Texas 75961  
TCEQ Facility ID No. F0277, MSD 384, CN600411698, RN102576493  
TCEQ Agreed Order Docket No. 1999-0397-IHW-E

Dear Dr. Unruh:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced MSD application on March 23, 2018 and additional information supporting this MSD application on August 21, 2018. Based on our review, the application contains the required information as outlined in Texas Health and Safety Code (THSC) §361.804. Enclosed is the MSD Certification for your site. If you have any questions, please do not hesitate to contact me at (512) 239-2362 or via e-mail at [john.cao@tceq.texas.gov](mailto:john.cao@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "John Cao".

John Cao, Project Manager  
Team 1, VCP-CA Section  
Remediation Division

JC/jdm

Enclosure: MSD Certificate No. 384

cc: Mr. Glen A. Collier, P.G., C.P.G., Senior Hydrogeologist, Hydrex Environmental, 1120 NW Stallings Drive, Nacogdoches, Texas 75964  
Ms. Marilyn Gates, TCEQ, Waste Section Manager, Beaumont Regional Office, MC R-10

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



MUNICIPAL SETTINGS DESIGNATION CERTIFICATE

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Beth Seaton, Director, Remediation Division, TCEQ, certify the Municipal Setting Designation (MSD) for MSD No. 384, in the City of Nacogdoches, 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 ordinance or restrictive covenant required by Texas Health and Safety Code §361.8065 remains 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 4<sup>th</sup> day of October, 2018

Beth Seaton

Beth Seaton, Director  
Remediation Division  
Texas Commission on Environmental Quality



**TWO FIFTEEN  
CONSULTING**  
**ENGINEERS + SURVEYORS**

18044 - HYDREX ENVIRONMENTAL  
49.05 ACRES, A-7 & A-711  
NACOGDOCHES, TEXAS

**FIELD NOTES**

All that certain 49.05 acres of land, lying and being situate in the City of Nacogdoches, Nacogdoches County, Texas, on the JOSE LUIS DE LA BEGA SURVEY, A-7, and the JASON T. SHANKS SURVEY, A-711, being part of a called 53.415 acre tract (also called Lots 8, 8-C & 8-D, City Block 59) conveyed by JAL Land & Cattle, Inc., to Don C. Lawrence, as described in Warranty Deed dated October 26, 1989, recorded in Volume 754, Page 97 of the Real Property Records of Nacogdoches County, Texas (RPR), a called 3.22 acre tract (also called Lot 9-A, City Block 59) conveyed by Grasslands Fertilizer Company to American Plant Food Corporation, as described in Warranty Deed dated December 15, 1982, recorded in Volume 482, Page 269 of the Deed Records of Nacogdoches County, Texas (DR), a called 1.01 acre tract (also called Lot 9, City Block 59) conveyed by Don C. Lawrence to American Plant Food Corporation, as described in General Warranty Deed dated January 3, 2006, recorded in Volume 2389, Page 72 of the Official Public Records of Nacogdoches County, Texas (OPR), and part of a called 10.48 acre tract (also called Lot 8-E, City Block 59) conveyed by SSC Nacogdoches Property, Ltd., to Royal Hawk Air, Inc., as described in Deed dated December 31, 2015, recorded in Volume 4358, Page 169 OPR (see 4111/6 OPR), and being more particularly described as follows, to wit:

-oOo-

Note that in the following description:

- Bearings and distances are based upon the Texas Coordinate System of 1983 (2011), Central Zone, U.S. Survey Feet, having a convergence angle of 2°55'38" and a combined scale factor of 0.99992354 at the point of beginning,
- See plat and Surveyor's Report dated 8/16/2018.

-oOo-

BEGINNING at a bent 3/8" iron rod found for the southeast corner of the 1.01 acre tract, in the north margin of Bennett Clark Road (see 138/611 DR) and in the curving west right-of-way line of the Texas & New Orleans Railroad (T&NO RR), as described in Deed from John Ballinger, et ux, to the T&NO RR Company, as described in Deed dated April 3, 1900, recorded in Volume 43, Page 314 DR;

THENCE N 87°33'09" W (called N 84°36'20" W) with the south boundary line of the 1.01 acre tract, at 175.05 feet pass a point for the southwest corner of the 1.01 acre tract and the southeast corner of the 3.22 acre tract, from which a 1/2" iron rod found with a plastic cap marked "BARWIN CONSULTANTS PROPERTY CORNER" (BWPC) for witness bears N 02°28'50" E, 5.81 feet, continuing with the south boundary line of the 3.22 acre tract, at 459.92 feet pass an "X" found cut in concrete for the southwest corner of the 3.22 acre tract and the southernmost southeast corner of the residue of the 53.415 acre tract, continuing for a total distance of 510.35 feet to a 3/4" iron pipe found for the southeast corner of the 10.48 acre tract and in the north boundary line of a called 34.4022 acre tract conveyed by J. W. Sutton, et al, to the City of Nacogdoches, as described in General Warranty Deed dated October 4, 1968, recorded in Volume 531, Page 523 DR;

THENCE N 84°54'38" W, 813.74 feet (called N 82°00'00" W, 843.74 feet to the centerline of Lanana Creek) with the south boundary line of the 10.48 acre tract and the north boundary line of the 34.4022 acre tract to a ½" iron rod set for corner with a maroon plastic cap marked "2:15 RPLS 5875" on the east bank of Lanana Creek;

THENCE with the meanders of the east bank of Lanana Creek as follows:

1. N 00°49'38" W, 64.45 feet to a point for corner;
2. N 03°12'22" E, 97.11 feet to a point for corner;
3. N 16°08'16" W, 63.48 feet to a point for corner;
4. N 05°53'15" E, 51.15 feet to a point for corner;
5. N 22°18'09" W, 216.88 feet to a ½" iron rod, with a yellow plastic cap marked "SAMSON 1915", found for corner on the east bank of Lanana Creek;
6. N 15°35'55" W, 70.10 feet to a point for corner;
7. N 20°04'55" W, 190.96 feet to a point for corner;
8. N 08°21'47" W, 98.79 feet to a point for corner;
9. N 21°38'05" E, 508.41 feet to a point for corner;
10. N 23°50'34" E, 309.14 feet to a point for corner;
11. N 19°22'09" E, 75.20 feet to a point for corner;
12. N 15°49'24" E, 233.22 feet to a point for corner at the intersection of the east bank of Lanana Creek and the centerline of Line Branch (sometimes called Shanks Branch);

THENCE with the meanders of the centerline of Line Branch and the north boundary line of the Jason T. Shanks Survey, A-711, as follows:

1. N 55°32'08" E, 25.26 feet to a point for corner;
2. S 35°12'18" E, 53.02 feet to a point for corner;
3. S 63°59'07" E, 77.33 feet to a point for corner;
4. S 26°07'39" E, 32.10 feet to a point for corner;
5. S 88°34'13" E, 22.01 feet to a point for corner;
6. N 68°10'38" E, 41.02 feet to a point for corner;
7. N 32°02'05" E, 19.70 feet to a point for corner;
8. N 22°27'07" W, 55.24 feet to a point for corner;
9. S 82°46'14" E, 67.64 feet to a point for corner;
10. S 03°44'06" W, 42.06 feet to a point for corner;
11. S 76°34'32" E, 135.16 feet to a point for corner;
12. S 60°12'49" E, 35.23 feet to a point for corner;
13. N 64°59'22" E, 63.70 feet to a point for corner;
14. N 37°50'52" E, 93.05 feet to a point for corner;



15. S 74°40'46" E, 59.09 feet to a point for corner;
16. N 55°22'11" E, 134.61 feet to a point for corner;
17. S 71°41'47" E, 35.70 feet to a point for corner;
18. S 57°10'00" E, 156.41 feet to a point for corner;
19. S 47°19'10" E, 62.53 feet to a point for corner;
20. S 14°51'07" E, 78.78 feet to a point for corner;
21. S 74°33'26" E, 68.42 feet to a point for corner;
22. S 20°08'24" E, 21.37 feet to a point for corner;
23. S 13°11'12" W, 48.75 feet to a point for corner;
24. S 30°07'32" E, 10.14 feet to a point for corner in the centerline of Line Branch and the west boundary line of the right-of-way of the T&NO RR as described in Deed date June 28, 1900, recorded in Volume 43, Page 360 DR, from which a bent ½" iron rod found for witness bears S 01°15'11" W, 26.26 feet;

THENCE S 01°15'11" W with an east boundary line of the 53.415 acre tract and the west boundary line of the T&NO RR right-of-way, at 26.26 feet pass a bent ½" iron rod found for witness, and continuing for a total distance of 351.79 feet (called S 03°50' W, 344.4 feet) to a ½" iron rod found for corner, from which a triple sweetgum, found marked  $\boxtimes$ , bears S 62° E, 33.8 feet;

THENCE S 88°41'16" E, 50.03 feet (called S 86°30' E, 50 feet) with the T&NO RR right-of-way to a ½" iron rod found for corner, from which a double sweetgum, found marked  $\boxtimes$ , bears N 12° E, 14.6 feet;

THENCE S 01°14'47" W, 218.17 feet (called S 03°30' W) with the T&NO RR right-of-way to a ½" iron rod found for corner;

THENCE 144.54 feet with a curve (called 1°) to the left having a radius of 5,779.65 feet, a central angle of 1°25'58" and a chord of S 00°42'54" W, 144.53 feet to a ¾" iron rod found for the northeast corner of a 4.00 acre tract conveyed by Trinity Construction Materials, Inc., to TXI Operations, LP, as described in Special Warranty Deed dated May 20, 2013, recorded in Volume 3933, Page 308 OPR;

THENCE S 85°36'26" W, 452.73 feet (called S 88°31'57" W, 451.66 feet) with the north boundary line of the 4.00 acre tract to a ½" iron rod found for corner with a yellow plastic cap marked "SAMSON 1915";

THENCE S 04°28'28" E, 479.21 feet (called S 01°28'22" E, 479.60 feet) with the west boundary line of the 4.00 acre tract to a ¾" iron rod found for the northwest corner of the 3.22 acre tract;

THENCE N 86°11'23" E, 60.56 feet (called N 88°55'04" E, 60.81 feet) with the north boundary line of the 3.22 acre tract to a spike (BWPC) found for corner;

THENCE S 05°35'42" W, 25.38 feet (called S 08°25'04" W, 25.35 feet) with the north boundary line of the 3.22 acre tract and the south right-of-way of the T&NO RR as described in Deed dated May 15, 1901, recorded in Volume 43, Page 408 DR, to a spike (BWPC) found for corner;

THENCE N 85°59'28" E, 21.64 feet (called N 88°55'04" E, 21.72 feet) continuing with the north boundary line of the 3.22 acre tract and the T&NO RR right-of-way to a spike (BWPC) found for corner;

THENCE S 89°39'40" E, 79.10 feet (called S 86°43'41" E, 78.99 feet) continuing with the north boundary line of the 3.22 acre tract and the T&NO RR right-of-way to a 1/2" iron rod (BWPC) found for corner;

THENCE S 79°06'00" E, 96.19 feet (called S 76°12'23" E, 96.24 feet) continuing with the north boundary line of the 3.22 acre tract and the T&NO RR right-of-way to a spike (BWPC) found for corner;

THENCE S 63°43'58" E, 97.50 feet (called S 60°47'08" E, 97.55 feet) continuing with the northeast boundary line of the 3.22 acre tract and the T&NO RR right-of-way to a 1/2" iron rod (BWPC) found for corner;


THENCE S 47°40'35" E, 89.70 feet (called S 44°45'32" E, 89.83 feet) with the T&NO RR right-of-way to a bent 3/8" iron rod found for the northeast corner of the 3.22 acre tract and the northwest corner of the 1.01 acre tract;

THENCE S 32°42'18" E, 91.13 feet (called S 29°49'10" E, 91.01 feet) with the northeast boundary line of the 1.01 acre tract and the T&NO RR right-of-way to a 1/2" iron rod (BWPC) found for corner;

THENCE 264.05 feet with a curve to the left having a radius of 5,779.65 feet, a central angle of 2°37'03" and a chord of S 08°22'25" E, 264.03 feet (called 1° curve) to the place of BEGINNING, containing within these calls 49.05 acres.

I, George F. Middlebrook, IV, a duly Registered Professional Land Surveyor in the State of Texas, do hereby certify that above field note description was prepared from a survey made by me on the ground, completed August 16, 2018.

Witness my hand and seal of registration:

  
\_\_\_\_\_  
(original signed in blue ink)

TX RPLS #5875



# Exhibit B

## Municipal Setting Designation

### Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared  
Dr. Larry Unruh, as an authorized representative of  
American Plant Food Corporation, known to me to be the person  
whose name is subscribed below who being by me first duly sworn, upon their oath,  
stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

I affirmatively state that (place an X in all applicable blanks)

- The MSD eligibility criteria of THSC Section 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 has been 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.

*Larry Unruh*  
Signature

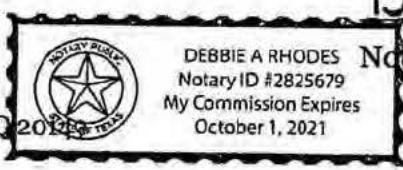
Date: March 12, 2018

Dr. Larry Unruh  
Printed Name  
Technical Director, American Plant Food Corporation  
Title

STATE OF Texas  
COUNTY OF Harris

SUBSCRIBED AND SWORN before me on this the 12 day of  
March 2018, to which witness my hand and seal of office.

Debbie A. Rhodes  
Notary Public in and for the State of Texas







# Exhibit B

## Municipal Setting Designation

### Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Mr. Don Lawrence, as an authorized representative of \_\_\_\_\_, known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

I affirmatively state that (place an X in all applicable blanks)

- The MSD eligibility criteria of THSC Section 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 has been 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.

Don Lawrence  
Signature

Date: 3/22/18

Mr. Don Lawrence  
Printed Name

owner  
Title

STATE OF Texas  
COUNTY OF Nacogdoches

SUBSCRIBED AND SWORN before me on this the 22 day of March 2018, to which witness my hand and seal of office.

Shaina Strong  
Notary Public in and for the State of Texas

