

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 22, 2008

Mr. Steve Claybrook, Environmental Compliance Manager
P.O. Box 2000
Lubbock, TX 79457

RE: Municipal Setting Designation (MSD) Certificate for Lubbock Power & Light
Plant No. 1, 5th Street and Avenue J, Lubbock, TX; MSD No. 41

Dear Mr. Claybrook:

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.
Environmental Cleanup Section II
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, Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 41, in the City of Lubbock, 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.

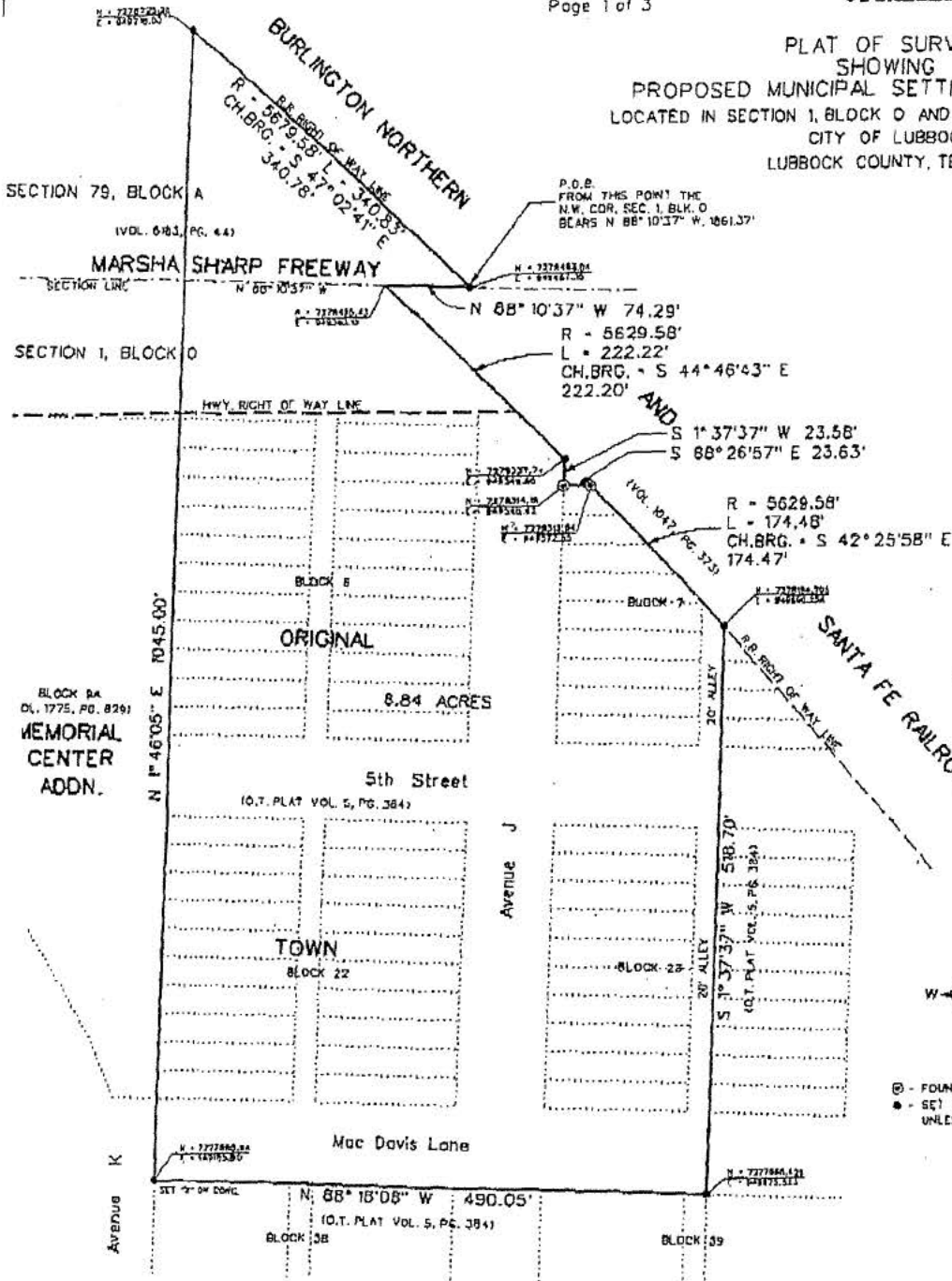
Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this 14 day of February, 2008.

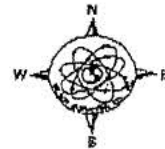
A handwritten signature in cursive script, appearing to read "Glenn Shankle", written over a horizontal line.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

PLAT OF SURVEY
SHOWING
PROPOSED MUNICIPAL SETTING DESIGNATION
LOCATED IN SECTION 1, BLOCK O AND SECTION 79, BLOCK A,
CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS



BLOCK BA
DL. 1775, PG. 829)
MEMORIAL
CENTER
ADDN.



⊙ - FOUND 1/4" ROD WITH CAP
● - SET 1/4" ROD WITH CAP
UNLESS NOTED OTHERWISE

83. COORDINATES FOR THIS SURVEY WERE OBTAINED FROM
S DAVIS SOLUTION BASED ON CORN STA.'S SUMMERFIELD 1,
BLOCK RRP2 AND JAYTON.
84. BEARINGS AND COORDINATES SHOWN ARE GRID BASED ON THE TEXAS
E PLANE COORDINATE SYSTEM, NAD 83, TEXAS NORTH CENTRAL
85. DISTANCES SHOWN ARE SURFACE DISTANCES.
86. AGE CONVERGENCE FOR THIS SURVEY -1" 44" 32"
87. AGE COMBINED FACTOR FOR THIS SURVEY 0.89976772

A LEGAL DESCRIPTION OF EVEN DATE HEREWITH ACCOMPANIES THIS PLAT,
SURVEYED ON THE GROUND JANUARY 28 AND FEBRUARY 5, 2007

Gary D. Wilson
REGISTERED PROFESSIONAL LAND SURVEYOR
DATE: 2-5-07.



1. Any and all information herein is by the publisher for all
purposes a good, true and correct copy of the original...
2. It is not to be used as a basis for any other purpose for which
it was not intended. The reader is advised to consult the
original plat for all details and to refer to the same when
needed.
3. It has been made a condition of this plat that the
same shall be subject to the provisions of the
Act of March 29, 1909, and to the provisions of the
Act of June 14, 1910, and to any other laws in force
and effect at the time this plat is published.

SCALE: 1" = 100' (REVISION: 02-01-07) | PLAT DATE: 01-28-07
COUNT: 48985 & 1000, 011
OWNED BY: D. BURROW | SURVEY DATE: 01-26-07
SURVEYED BY: J. MARTIN JR. | FIELD BOOK: 4898, PG. 2-3
FILE NO. 30-022 (SHEET NO. 1)

WILSON SURVEYING Co., INC.
Registered Professional Land Surveyors
Global Positioning System Surveyors
2007-2008 Surveyor License, Texas 3510
Office: 804 N. 17th St., Lubbock, TX 79402



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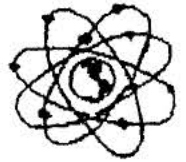


EXHIBIT "A"
Page 2 of 3

MUNICIPAL SETTING DESIGNATION LEGAL DESCRIPTION

Being a 8.84 acre tract of land out of Section 1, Block O and Section 79, Block A, City of Lubbock, Lubbock County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap set at the intersection of the North line of Section 1, Block O, with the existing Westerly right of way line of the Burlington Northern and Santa Fe Railroad for a corner of this 8.84 acre tract, whence the Northwest corner of said Section 1, Block O, bears North 88°10'37" West, a distance of 1861.37 feet;

THENCE North 88°10'37" West, along the North line of said Section 1, Block O, a distance of 74.29 feet to a point for a corner of this 8.84 acre tract;

THENCE Southeasterly, along the existing Westerly right of way line of the Burlington Northern and Santa Fe Railroad, being the arc of a curve to the right an arc distance of 222.22 feet to a 1/2" iron rod with cap, set for a corner of this 8.84 acre tract and a right of way corner of said Burlington Northern and Santa Fe Railroad, said curve having a radius of 5629.58 feet and a chord that bears South 44°46'43" East, a distance of 222.20 feet;

THENCE South 01°37'37" West, along the existing right of way line of the Burlington Northern and Santa Fe Railroad, a distance of 23.58 feet to a 1/2" iron rod with cap, found for a right of way corner of said Burlington Northern and Santa Fe Railroad and a corner of this 8.84 acre tract;

THENCE South 88°26'57" East, along the existing right of way line of the Burlington Northern and Santa Fe Railroad, a distance of 23.63 feet to a 1/2" iron rod with cap, found for a right of way corner of said Burlington Northern and Santa Fe Railroad and a corner of this 8.84 acre tract;

THENCE Southeasterly, along the existing Westerly right of way line of the Burlington Northern and Santa Fe Railroad, being the arc of a curve to the right an arc distance of 174.48 feet to a 1/2" iron rod with cap, set for the most Southerly Northeast corner of this 8.84 acre tract and a right of way corner of said Burlington Northern and Santa Fe Railroad, said curve having a radius of 5629.58 feet and a chord that bears South 42°25'58" East, a distance of 174.47 feet;

THENCE South 01°37'37" West, along the East line of a 20 foot alley lying between Blocks 7 and 23, Original Town of Lubbock, a distance of 518.70 feet to a 1/2" iron rod with cap, set for the Northwest corner of the East half of Block 39, Original Town of Lubbock and the Southeast corner of this 8.84 acre tract;

THENCE North 88°18'08" West, along the existing South right of way line of Mac Davis Lane, a distance of 490.05 feet to a 1/2" iron rod with cap, set for the Northwest corner of Block 38, Original Town of Lubbock, and being the Southwest corner of this 8.84 acre tract;

THENCE North 01°46'05" East, along the East line of Block 9A, Memorial Center Addition and West line of Blocks 22 and 6, Original Town of Lubbock, projecting this line a distance of 1045.00 feet to a point of intersection with the Westerly right of way line of the Burlington Northern and Santa Fe Railroad, set a 1/2" iron rod with cap for the most Northerly corner of this 8.84 acre tract;

THENCE Southeasterly, along the existing Westerly right of way line of the Burlington Northern and Santa Fe Railroad, being the arc of a curve to the right an arc distance of 340.83 feet to the point of beginning, said curve having a radius of 5679.58 feet and a chord that bears South 47°02'41" East, a distance of 340.78 feet.



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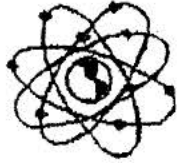


EXHIBIT "A"
Page 3 of 3

Notes:

A plat of even date herewith accompanies this legal description.

Bearings shown are grid based on the Texas State Plane Coordinate System, NAD 83, Texas North Central Zone.

All distances shown are actual surface distances.

Average Convergence for this survey is -01°49'32"

Average Combined Factor for this survey is 0.99976772

SURVEYED ON THE GROUND JANUARY 26 AND FEBRUARY 5, 2007


Registered Professional Land Surveyor



Date: 2-5-07

'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. LPST #s 92462, 93557, 93157, 93153, 99635, 94334		
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 ⁵
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 th Legislature.)	<input checked="" type="radio"/> Yes, when? 1/16/89	<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.		

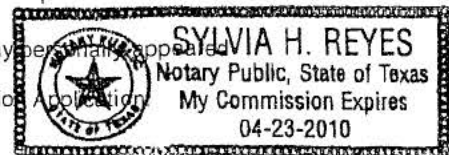
I affirmatively state that (place an X in all applicable blanks):

- 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.

Steve K. Claybrook
Applicant Signature

6/13/07
Date

Before me Sylvia H. Reyes the undersigned authority, on this day June 13, 2007,
Name of Notary
Steve K. Claybrook and signed this Municipal Setting Designation Application
Name of Applicant



Sworn, subscribed and signed before me in the County of Lubbock, State of Texas, on the 13th day of June, this month of June, 2007.