

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*

February 29, 2012

Ms. Frances Phillips  
Attorney  
Gardere Wynne Sewell LLP  
1601 Elm Street  
Dallas, Texas 75201

RE: 804 North Collins Street, Dallas, Dallas County, TX; Municipal Setting Designation (MSD) Application No. 174

Dear Ms. Phillips:

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) 239-2205 or via e-mail (Rodney.Bryant@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink that reads "Rodney Bryant".

Rodney Bryant, Project Manager  
VCP-CA Section  
Remediation Division

RDB/mdh

Enclosure: MSD Certificate No. 174  
City Contact Letter Notice of Certification

cc: Mrs. Peter Silkworth, VCP Project Manager, 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 (MSD) for MSD No.174, in the City of Arlington, 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 15<sup>th</sup> day of February, 2012

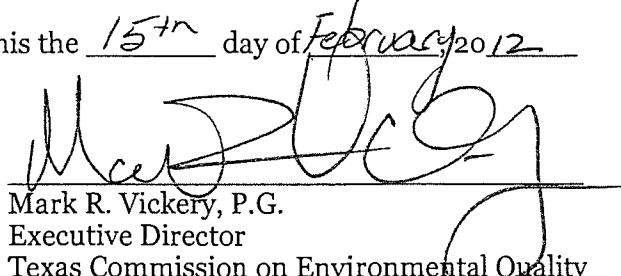
  
\_\_\_\_\_  
Mark R. Vickery, P.G.  
Executive Director  
Texas Commission on Environmental Quality

EXHIBIT "A"

BOUNDARY SURVEY  
PORTION OF LOTS 1 & 2  
NORTH SIDE ADDITION

JOEL BLACKWELL SURVEY, ABSTRACT NO. 147  
CITY OF ARLINGTON, TARRANT COUNTY, TEXAS

BEING A PORTION OF LOTS 1 & 2, NORTH SIDE ADDITION, RECORDED IN VOLUME 1026, PAGE 517 OF THE DEED RECORDS, TARRANT COUNTY, TEXAS SITUATED IN THE JOEL BLACKWELL SURVEY, ABSTRACT NO. 147, AND BEING A PORTION OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED IN A DEED TO PLAINSCAPITAL BANK, RECORDED IN INSTRUMENT NO. D210240343, DEED RECORDS, TARRANT COUNTY, TEXAS AND BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" REBAR FOUND FOR THE SOUTHWEST CORNER OF SAID INSTRUMENT NO. D210240343 TRACT, SAME BEING ON THE NORTH RIGHT-OF-WAY LINE OF EAST ROGERS STREET, A 50 FOOT RIGHT-OF-WAY, FROM WHICH A 1/2" REBAR FOUND FOR THE SOUTHWEST CORNER OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED IN A DEED TO PLAINSCAPITAL BANK, RECORDED IN INSTRUMENT NO. D209203133, DEED RECORDS, TARRANT COUNTY, TEXAS BEARS NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 214.00 FEET;

THENCE ALONG THE WEST LINE OF SAID INSTRUMENT NO. D210240343 TRACT, NORTH 00 DEGREES 14 MINUTES 00 SECONDS EAST A DISTANCE OF 125.00 FEET TO A POINT FROM WHICH THE CENTER OF A 3 INCH METAL FENCE POST CUT FLUSH WITH THE GROUND BEARS NORTH 67 DEGREES 02 MINUTES 32 SECONDS EAST A DISTANCE OF 0.33 FEET AND A 1/2" REBAR FOUND FOR THE NORTHEAST CORNER OF SAID INSTRUMENT NO. D209203133 TRACT BEARS NORTH 00 DEGREES 14 MINUTES 00 SECONDS EAST A DISTANCE OF 120.03';

THENCE ALONG THE NORTH LINE OF SAID INSTRUMENT NO. D210240343 TRACT, NORTH 89 DEGREES 29 MINUTES 10 SECONDS EAST A DISTANCE OF 125.00 FEET TO A SCRIBED 'X' IN CONCRETE FOUND FOR THE NORTHEAST CORNER OF SAID INSTRUMENT NO. D210240343 TRACT, SAME BEING ON THE WEST RIGHT-OF-WAY LINE OF NORTH COLLINS STREET, A VARIABLE WIDTH RIGHT-OF-WAY;

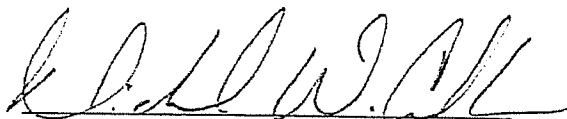
THENCE ALONG THE COMMON LINE OF SAID INSTRUMENT NO. D210240343 TRACT AND SAID NORTH COLLINS STREET, SOUTH 00 DEGREES 14 MINUTES 00 SECONDS WEST A DISTANCE OF 100.00 FEET TO A 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "EBG RPLS 6143" SET FOR THE NORTH CORNER OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED IN A DEED TO THE CITY OF ARLINGTON, RECORDED IN INSTRUMENT NO. D210073555, DEED RECORDS, TARRANT COUNTY, TEXAS;

THENCE ALONG THE NORTHWEST LINE OF SAID CITY OF ARLINGTON TRACT, SOUTH 44 DEGREES 51 MINUTES 30 SECONDS WEST A DISTANCE OF 35.59 FEET TO A 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "EBG RPLS 6143" SET FOR THE WEST CORNER OF SAID CITY OF ARLINGTON TRACT, SAME BEING ON THE SOUTH LINE OF SAID INSTRUMENT NO. D210240343 TRACT AND ON SAID NORTH RIGHT-OF-WAY LINE OF EAST ROGERS STREET;

BOUNDARY SURVEY  
(CONTINUED)  
PORTION OF LOTS 1 & 2  
NORTH SIDE ADDITION  
JOEL BLACKWELL SURVEY, ABSTRACT NO. 147  
CITY OF ARLINGTON, TARRANT COUNTY, TEXAS

THENCE ALONG THE COMMON LINE OF SAID INSTRUMENT NO. D210240343 TRACT AND SAID EAST ROGERS STREET, SOUTH 89 DEGREES 29 MINUTES 16 SECONDS WEST A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING CONTAINING 15,290 SQUARE FEET OR 0.351 ACRE OF LAND MORE OR LESS.

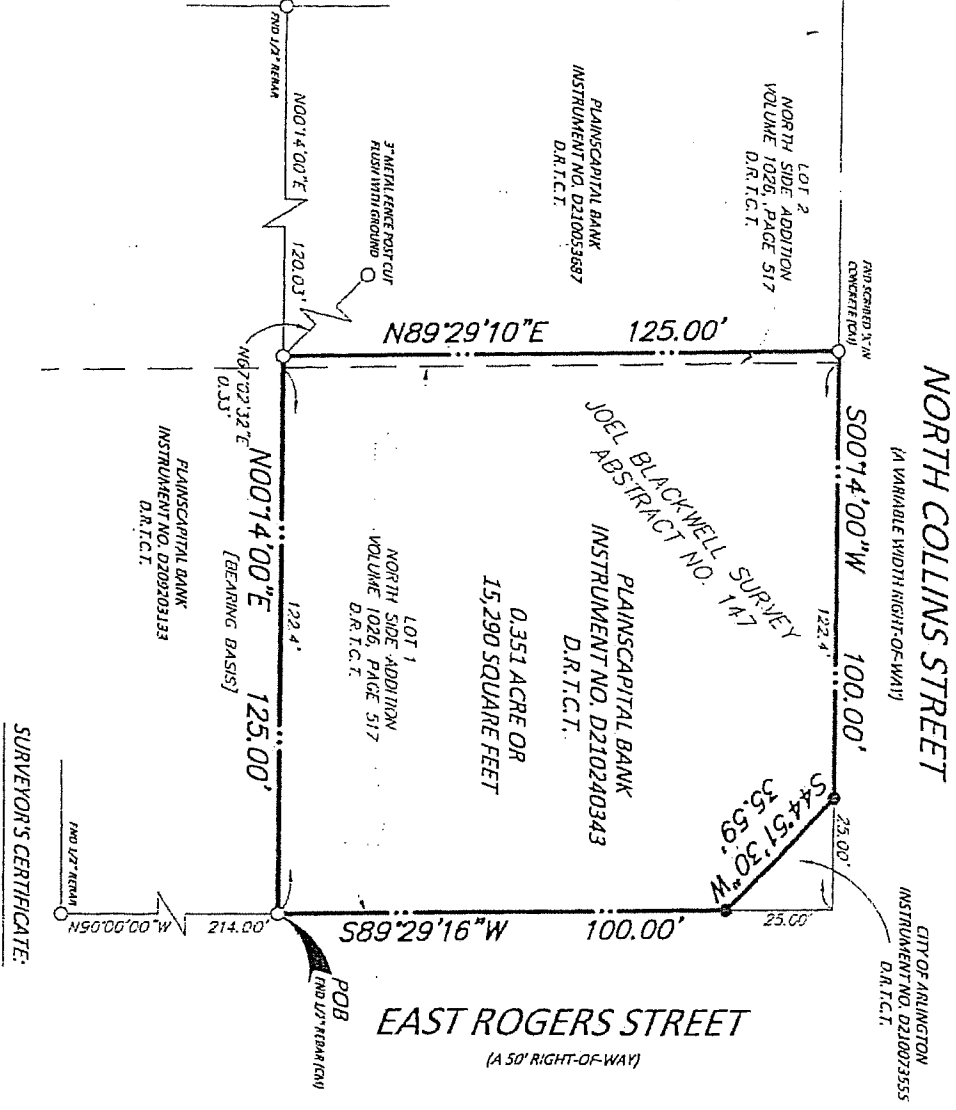
BEARINGS ARE BASED ON THE WEST LINE OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED IN A SPECIAL WARRANTY DEED TO PLAINSCAPITAL BANK, RECORDED IN INSTRUMENT NO. D210240343 AND IS SHOWN THEREON AS NORTH 00°14'00" EAST.



MICHAEL W. CALHOUN, RPLS #6143  
NOVEMBER 18, 2010



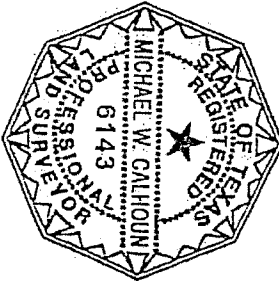
**GENERAL NOTES:**  
 BEARINGS ARE BASED ON THE WEST LINE OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED IN A SPECIAL WARRANTY DEED TO PLAINSCAPITAL BANK, RECORDED IN INSTRUMENT NO. D210240343 AND IS SHOWN THEREON AS NORTH 00°14'00" EAST. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, EASEMENTS AND/OR OTHER ENCUMBRANCES MAY EXIST THAT ARE NOT SHOWN ON THIS SURVEY.  
 OWNERSHIP FOR THE SUBJECT AND ADJOINING PARCELS WAS OBTAINED FROM THE TARRANT APPRAISAL DISTRICT'S WEBSITE. (WWW.TAD.ORG)  
 A LEGAL DESCRIPTION OF EVEN DATE ACCOMPANIES AND DESCRIBES THE SUBJECT TRACT SHOWN HEREON.



**SURVEYOR'S CERTIFICATE:**

I, MICHAEL W. CALHOUN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS HEREBY CERTIFY THAT AN ACTUAL SURVEY WAS PERFORMED FOR THE SUBJECT TRACT SHOWN HEREON AND UNDER MY DIRECT SUPERVISION AND THAT THIS SURVEY CONFORMS WITH THE ACT AND RULES SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.

*Michael W. Calhoun*  
 MICHAEL W. CALHOUN, RLS 66143  
 NOVEMBER 18, 2010



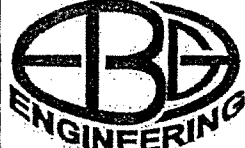
**LEGEND**

- NOTHING FOUND NOR SET UNLESS NOTED OTHERWISE
- 1/2" REBAR WITH YELLOW PLASTIC CAP STAMPED "RPS 6143" SET
- CONTROL MONUMENT
- SUBJECT PROPERTY LINE
- ADJOINING PROPERTY LINE

1 inch = 30 ft.

(FEET)  
 0 15 30 60

**BOUNDARY SURVEY**  
 A PORTION OF LOTS 1 & 2, NORTH SIDE ADDITION  
 LOCATED IN THE  
 JOEL BLACKWELL SURVEY, ABSTRACT NO. 147  
 CITY OF ARLINGTON, TARRANT COUNTY, TEXAS



**EBG ENGINEERING, LLC**  
 CONSULTING ENGINEERS & SURVEYORS  
 PO BOX 570427  
 DALLAS, TEXAS 75357-0427  
 PHONE: (214) 321-3661  
 FAX: (214) 321-3662

PAGE 3 OF 3  
 DATE: 11/18/10  
 JOB NO.: 10035  
 DWG FILE: 10035 BNDY  
 SCALE: 1"=40'  
 DRAWN BY: MWC  
 REVIEWED BY: MWC/JWB

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 checked="" 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.		
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 checked="" 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 checked="" type="radio"/> Yes, when? 03 /29 /2011	<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>5</sup>	<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 <sup>5</sup>	<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 <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 checked="" 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.

Frances E. Phillips Jr  
Applicant Signature  
July 7, 2011  
Date

Before me Suzanne E. Caesar the undersigned authority, on this day personally appeared  
Frances E. Phillips  
Name of Notary  
804 N. Collins  
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 7<sup>th</sup> day of July, this month of July, 2011.

