

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2007

Mr. David Mayes, Facility Manager
Helena Laboratories
1530 Lindbergh Drive
Beaumont, TX 77707

Re: Certification of Municipal Setting Designation Application for Helena Laboratories, 1420 Lindbergh, Beaumont, TX; (MSDAPP037, MSD034)

Dear Mr. Mayes:

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., Project Manager
Environmental Cleanup Section II
Remediation Division

Enclosure

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 034

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 Helena Laboratories, 1420 Lindbergh Drive, Beaumont, 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 3rd day of July, 2007.

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

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 3rd day of July, 2007, personally appeared Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 3rd day of July, 2007.

A handwritten signature in black ink, appearing to read "Connie S. Lucas", written over a horizontal line.

Notary Public in and for the State of Texas

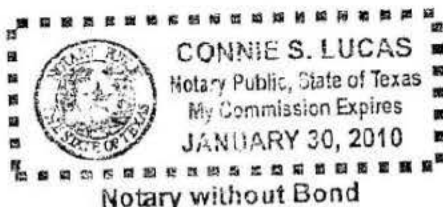


EXHIBIT "A"
LEGAL DESCRIPTION OF THE SITE
MSD 034

Lots Thirty-one (31) and Thirty-two(32), in Block Seven (7), of Caldwell Acre Addition, and Addition to the City of Beaumont, Jefferson County, Texas, According to the map or plat there of recorded in Volume 5 page 70 of the Map Records of Jefferson County, Texas.

B



Municipal Setting Designation Application Form

| | |
|------------------------------|-------------------------------------|
| TCEQ Office Use Only: | Date Add. Info Req. <i>6/22/07</i> |
| Application No: | Date Add. Info Rec'd <i>6/25/07</i> |
| Date Received: <i>4/2/07</i> | Date Certified: <i>/ /</i> |
| | Date Denied: <i>/ /</i> |

Reset form

Municipal Setting Designation Eligibility Criteria:

| | | |
|---|----------------------------|---------------------------------------|
| Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.tamu.edu/tpepp/txpopest.php .) | <input type="radio"/> Yes | <input type="radio"/> No ¹ |
| Is the proposed municipal setting designation (MSD) within the extraterritorial jurisdiction of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.tamu.edu/tpepp/txpopest.php .) | <input type="radio"/> Yes | <input type="radio"/> No ¹ |
| Municipality name: <i>Beaumont, Texas</i> | Population: <i>113,569</i> | |
| Is there a public drinking water supply system that satisfies the requirements of THSC Chapter 341 and supplies or is capable of supplying drinking water to: a) the proposed MSD property, and b) each property within 0.5 miles beyond the boundary of the proposed MSD? | <input type="radio"/> Yes | <input type="radio"/> No ¹ |
| ¹ If No, the eligibility criteria are not met. Do not submit an application. | | |

Applicant and Fee Payment Information:

| | | |
|--|--------------------------------|---------------------------------------|
| Contact Person: <input checked="" type="radio"/> Mr. <input type="radio"/> Ms. <i>David Mayes</i> | | |
| Title: <i>Facility Manager</i> | | |
| Company: <i>Helena Laboratories</i> | | |
| Mailing Address: <i>1530 Lindbergh Drive</i> | | |
| City: <i>Beaumont</i> | State: <i>Texas</i> | Zip: <i>77707</i> |
| Telephone: <i>409 /842-3714 ext 148</i> | Telefax: <i>409 / 842-3094</i> | |
| E-mail Address: | | |
| Is the required \$1,000 application being submitted to TCEQ in advance or at the same time the MSD application is being submitted to TCEQ? | <input type="radio"/> Yes | <input type="radio"/> No ² |
| ² Do not submit application. | | |

Notice Information:

| | | |
|---|---------------------------|---|
| <u>On</u> or <u>before</u> the date of submission of the application to TCEQ, was notice provided to: | | |
| a) each municipality: | | |
| 1) where the proposed MSD is located? | <input type="radio"/> Yes | <input type="radio"/> No ³ |
| 2) with a border within 0.5 miles beyond the proposed MSD boundaries? | <input type="radio"/> Yes | <input type="radio"/> No ³ <input type="radio"/> NA ⁴ |
| 3) 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 type="radio"/> NA ⁴ |
| b) each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries? | <input type="radio"/> Yes | <input type="radio"/> No ³ <input type="radio"/> NA ⁴ |
| 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 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. none | | |
| 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 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 type="radio"/> Yes, when? / / | <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 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 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 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 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 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.

X Ray J
Applicant Signature

1-30-07
Date

Before me Keisha Williams the undersigned authority, on this day personally appeared
Name of Notary

Mr. David Mayes and signed this Municipal Setting Designation Application.
Name of Applicant

Sworn, subscribed and signed before me in the County of Jefferson, State of TX, on the 30
day of _____, this month of January 2007

