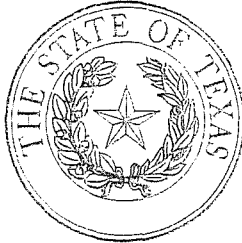


MSD 5 MSD 3
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 cert

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 003

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 the Former Kansas City Southern Railway Port Drum Facility, 237 West 9th Street, Port Arthur, 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 22nd day of March, 2005.

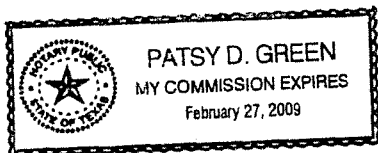
Handwritten signature of Glenn Shankle in black ink.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 22nd day of March, 2005, 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 22nd day of March, 2005.

Handwritten signature of Patsy D. Green in black ink.
Notary Public in and for the State of Texas

6.164 ACRES OF LAND
PART OF THE B. B. B. & C. RAILROAD COMPANY SURVEY, ABSTRACT
NO. 92, CITY OF PORT ARTHUR, JEFFERSON COUNTY, TEXAS

Being 6.164 acres of land out of and a part of the B. B. B. & C. Railroad Company Survey, Abstract No. 92, City of Port Arthur, Jefferson County, Texas; said 6.164 acre tract being more fully described by metes and bounds as follows, to wit:

BEGINNING at a ½" steel rod found for the intersection of the North right of way line of a dedicated road named West 9th Street and the East right of way line of a dedicated road named Joe Louis Avenue; said ½" steel rod being the Southwest corner of the herein described tract;

THENCE North 48 deg., 45 min., 10 sec., West (Called North 48 deg., 47 min., 00 sec., West), on the East right of way line of said Joe Louis Avenue, a distance of 1019.94' to a P. K. nail set in a concrete fence footing for the intersection of the East right of way line of said Joe Louis Avenue and the South right of way line of a dedicated road named Thomas Boulevard; said P. K. nail in concrete being the Northwest corner of the herein described tract;

THENCE North 41 deg., 13 min., 00 sec., East, on the South right of way line of said Thomas Boulevard, a distance of 264.98' to a ½" steel rod found for the Northeast corner of the herein described tract;

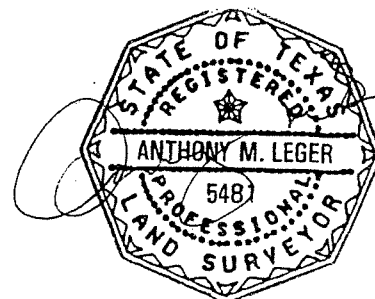
THENCE Ref. Line = South 48 deg., 47 min., 00 sec., East, a distance of 877.06' to a ½" steel rod found for point of curvature to the right;

THENCE on the arc of said curve to the right having a radius of 1158.64', a chord bearing of South 36 deg., 10 min., 52 sec., East, a chord distance of 146.60', an arc length of 146.69' to a ½" steel rod found on the North right of way line of said West 9th Street; said ½" steel rod being the Southeast corner of the herein described tract;

THENCE South 41 deg., 15 min., 43 sec., West (Called South 41 deg., 13 min., 00 sec., West), on the North right of way line of said West 9th Street, a distance of 233.53' to the POINT OF BEGINNING and containing 6.164 acres of land, more or less.

This description is based on the Land Survey made by Anthony M. Leger, Registered Professional Land Surveyor No. 5481, on December 10, 2004.

Kansas City Southern Railroad Company
LS-04-1345





Municipal Setting Designation Application Form

TCEQ Office Use Only: Application No: 004 Date Received: 01/18/05	Date Add. Info Req. / / Date Add. Info Rec'd / / Date Certified: / / Date Denied: / /
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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/txppoest.php .)	<input checked="" 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/txppoest.php .)	<input checked="" type="radio"/> Yes	<input type="radio"/> No ¹
Municipality name:	Population:	
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 checked="" 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. Chester A. Culley		
Title: General Director		
Company: Kansas City Southern Railroad		
Mailing Address: P.O. Box 219335		
City: Kanas City	State: Missouri	Zip: 64121-9335
Telephone: 816 / 983-1343	Telefax: 816 / 983-1622	
E-mail Address: [REDACTED]		
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 checked="" type="radio"/> Yes	<input type="radio"/> No ²
² Do not submit application.		

Notice Information:

<u>On or 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 checked="" type="radio"/> Yes	<input type="radio"/> No ³
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input checked="" 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 checked="" 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 checked="" 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 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.		
Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GWing)?	<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 checked="" type="radio"/> Yes, when? 02/ 17 /04	<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.

Chester A. Culley
Applicant Signature

January 12, 2005

Date

Before me Patricia A. Sexson the undersigned authority, on this day personally appeared
Name of Notary

Chester A. Culley and signed this Municipal Setting Designation Application.
Name of Applicant

Sworn, subscribed and signed before me in the County of Jackson, State of Missouri, on the 13th day of January, this month of _____, 2005

