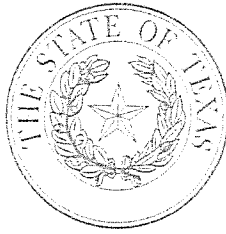


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



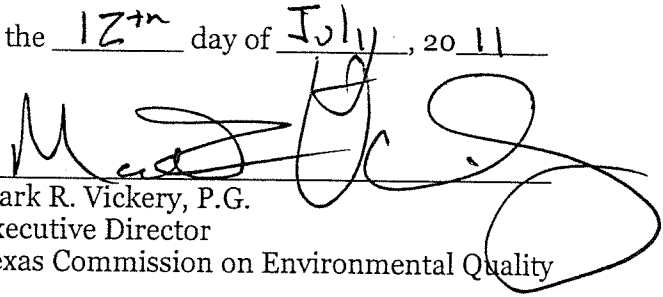
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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 for MSD No. 161, 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 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 12<sup>th</sup> day of July, 20 11

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

PARCEL "A"

SURVEYED FOR

CAL-TEX

All that certain tract or parcel of land lying and being situate about 2 miles South of the City of Nacogdoches, Nacogdoches County, Texas on the J.D.G. VERRELMAN SURVEY, A-574, being part of a 21.6 acre tract described in a Correction Deed from George S. Barham, Jr. to M. Steele Wright, dated September 11, 1952, recorded in Volume 230, Page 499 of the Deed Records Nacogdoches County, Texas, and more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the East R.O.W. of the T.&N.O.R.R., said beginning corner being the most Westerly NWC of the 21.6 acre tract and the SWC of a 0.67 acre tract described as "ROADWAY TRACT" in a conveyance from Middlebrook Lumber Company, Inc. to George A. Schmidbauer, dated July 13, 1987, recorded in Volume 671, Page 958 of the Deed Records Nacogdoches County, Texas;

THENCE S 88 06'45" E, with the NBL of the 21.6 acre tract and the SBL of the 0.67 acre tract, at 889.63 feet pass a 1/2" iron rod found for witness and at a total distance of 889.38 feet corner in the West R.O.W. of Farm-Market Road 1275, said corner being an interior corner of the 21.6 acre tract and the SEC of the 0.67 acre tract;

THENCE with the West R.O.W. of Farm-Market Road 1275 as follows:

S 45 07'25" W, 214.08 feet;

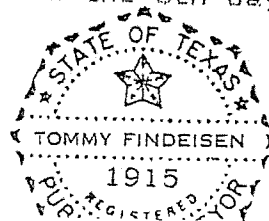
Southwestwardly, 121.42 feet with a curve to the left having a central angle of 08 05'57", a radius of 958.99 feet, and a chord of S 41 04'27" W, 121.32 feet to a 1/2" iron rod set for corner;

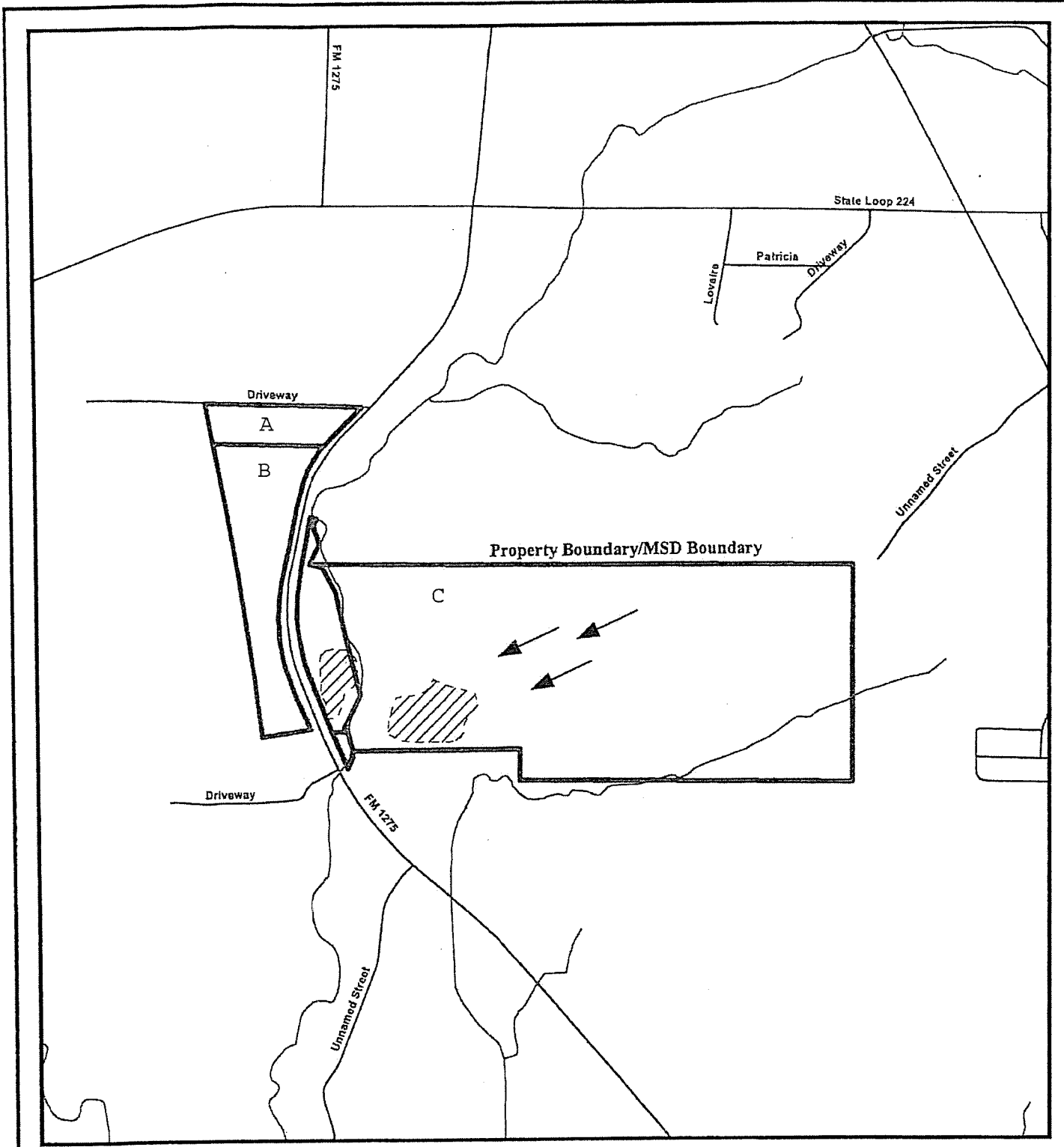
THENCE N 88 06'45" W, 614.97 feet to a 5/8" iron rod set for corner in the East R.O.W. of the T.&N.O.R.R., said corner being in the WBL of the 21.6 acre tract;

THENCE N 05 40'00" W, 255.17 feet with the WBL of the 21.6 acre tract and the East R.O.W. of the T.&N.O.R.R. to the place of BEGINNING, containing 4.29 acres.

I, Tommy Findeisen, a duly Registered Public Surveyor for the State of Texas hereby certify that the above field notes for CAL-TEX LUMBER COMPANY on the J.D.G. VERRELMAN SURVEY, A-574, are true and correct and were written from an actual survey made by me on the ground the 5th day of May, 1988.

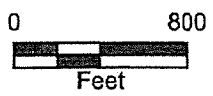
*Tommy Findeisen*  
Registered Public Surveyor No. 1915





- Stream
- MSD Boundary
- Road
- Area Exceeding Residential Assessment Levels (PCLE Zone)

Groundwater Gradient - 0.0139 feet/feet



**Hydrex**  
 ENVIRONMENTAL, INC.  
 1120 NW Stallings Drive  
 Nacogdoches, Texas 75964  
 (936) 568-9451 Fax: (936) 568-9527

**SITE MAP AND  
 GROUNDWATER PCLE ZONE**

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**EXHIBIT "A"**

Former Lone Star Phosphate Plant (VCP No. 2005)  
 East Side of FM 1275 and  
 Texas Farm Products Company (VCP No. 2024)  
 West Side of FM 1275,  
 Nacogdoches (Nacogdoches County), Texas

*MSD No. 161*

PARCEL "B"

SURVEYED FOR

TEXAS FARM PRODUCTS COMPANY

All that certain tract or parcel of land lying and being situate about 2 miles south of the City of Nacogdoches, Nacogdoches County, Texas on the **J.D.G. VERRELMAN SURVEY, A-574**, and being part of a 21.6 acre tract described in a conveyance from George S. Barham, Jr., to M. Steele Wright, dated September 11, 1952, recorded in Volume 230, Page 499 of the Deed Records Nacogdoches County, Texas, and more particularly described as follows:

**BEGINNING** at a 1" square rod found for corner near a fence corner post in the east right-of-way of the T. & N. O. Railroad described in Volume 2, Page 362 of the County Court Minutes of Nacogdoches County, Texas, at the SWC of the 21.6 acre tract and the NWC of a 0.16 acre tract described as First Tract in a conveyance from Tommy King to Animal Science Products, Inc., dated September 15, 1992, recorded in Volume 823, Page 126 of the Deed Records Nacogdoches County, Texas;

**THENCE** N 09°37'19" W, (called N 09° W in 230/499 and N 18°05' W in 2/362) 1743.48 feet with the east right-of-way of the T. & N. O. Railroad to a 5/8" iron rod found for corner at the base of a fence corner post at the SWC of a 4.29 acre tract described in a conveyance from Texas Farm Products Company to Lubin Corp., dated June 22, 1988, recorded in Volume 702, Page 528 of the Deed Records Nacogdoches County, Texas;

**THENCE** S 88°06'45" E, (reference bearing) 614.97 feet with the SBL of the 4.29 acre tract to its SEC, a 1/2" iron rod found for corner in the west right-of-way of Farm-Market Road 1275 described in Volume N, Page 18 of the County Commissioner's Court Records Nacogdoches County, Texas;

**THENCE** with the west right-of-way of Farm-Market Road 1275 as follows:

Southwesterly, 370.82 feet with a curve to the left having a central angle of 24°44'03", a radius of 858.99 feet, and a chord of S 24°39'27" W, 367.95 feet to a 1/2" iron rod set for corner;

S 12°17'25" W, 416.00 feet (called S 11°40' W) to a 1/2" iron rod set for corner;

Southeasterly, 707.19 feet with a curve to the left having a central angle of 34°10'00", a radius of 1185.92 feet and a chord of S 04°47'35" E, 696.75 feet to a 1/2" iron rod set for corner;

S 21°52'35" E, 270.59 feet to a point for corner in the SBL of the 21.6 acre tract from which a railroad spike found for witness at the NEC of the 0.16 acre bears N 87°02'31" E, 0.76 feet,

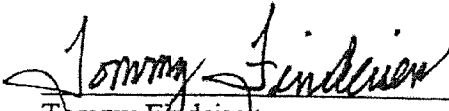
**THENCE** S 87°02'31" W, 240.53 feet (called S 86°15' W 240.9' in 230/499 and S 89°59'04" W, 241.33' in 823/126) with the SBL of the 21.6 acre tract and the NBL of the 0.16 acre tract to the place of **BEGINNING** containing 11.03 acres.

SEE PLAT OF THIS DATE.

*Exhibit A*

*Page 3 of 8*

I, Tommy Findeisen, a duly Registered Professional Land Surveyor for the State of Texas hereby certify that the above field note description of the property surveyed for TEXAS FARM PRODUCTS COMPANY, on the **J.D.G. VERRELMAN SURVEY, A-574**, is true and correct, there are no visible or apparent easements or encroachments from adjoining owners (other than shown) and the same was surveyed by me on the ground this the 30th day of November, 1995. USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.



Tommy Findeisen  
Registered Professional Land Surveyor No. 1915



PARCEL "C"

SURVEYED FOR

FIVE STAR REAL ESTATE PARTNERSHIP

All that certain tract or parcel of land lying and being situate about 2 miles south of the City of Nacogdoches, Nacogdoches County, Texas on the N. DE LA CERDA SURVEY, A-14, the D. CORTINAS SURVEY, A-132, and the J.D.G. VERRELMAN SURVEY, A-574, and being the same land described as an 83.5 acre tract (Tract Two-A) and a 0.75 acre tract (Tract Two-B) in a deed from Lone Star Phosphate Company to Five Star Real Estate Partnership, dated August 29, 1984, recorded in Volume 539, Page 638 of the Deed Records Nacogdoches County, Texas (DRNCT), and more particularly described as follows:

**BEGINNING** at a 3/8" iron rod found for corner at the base of a fence corner post at the NEC of the 83.5 acre tract, the occupied SEC of a 33.5 acre tract described in a deed from J. C. Boutte, to Ouida Boutte, dated July 28, 1973, recorded in Volume 383, Page 919 of the DRNCT, and an angle corner in the WBL of a 25.96 acre tract described in a deed from Herider Farms, Inc., to George Millard Jr., dated October 28, 1986, recorded in Volume 645, Page 246 of the DRNCT, from which a 24" Black Jack Oak, found marked "X", bears S 44° E, 6.0 feet;

**THENCE** S 03°01'26" E, 219.09 feet (called South 1232.6') with a wire fence and the WBL of the 25.96 acre tract to its SWC, a 3/8" iron rod found for corner at the NWC of a 46.14 acre tract described in a deed from Lizzie Holt to George Millard, Jr., dated June 30, 1992, recorded in Volume 817, Page 690 of the DRNCT;

**THENCE** S 03°41'29" E, 548.24 feet with a wire fence and the WBL of the 46.14 acre tract to its SWC, a 3/4" iron rod found for corner at the NWC of a 30 acre tract described in a deed from Willie Holt, Independent Executor of the Estate of Noel Holt, Jr., to George Millard, Jr., dated May 5, 1997, recorded in Volume 1097, Page 110 of the DRNCT;

**THENCE** S 04°38'44" E, 493.97 feet with a wire fence to a 1/2" iron rod found for corner at the NEC of a 9.03 acre tract described in a deed from James Wooten, et al, to Dana Woods, et ux, dated April 11, 2002, recorded in Volume 1723, Page 281 of the DRNCT;

**THENCE** S 87°15'15" W (called West 1944.4') with a wire fence and the NBL of the 9.03 acre tract, at 969.2 feet pass a 1/2" iron rod found at the NWC of the 9.03 acre tract and the NEC of the residue of a 36.55 acre tract described in a deed from James Kenner, et ux, to James Wooten, et al, dated April 6, 1993, recorded in Volume 842, Page 83 of the DRNCT, and continuing in all a total distance of 1976.79 feet to a 3/8" iron rod found for corner at the base of a fence corner post;

**THENCE** N 03°39'35" W, 174.99 feet (called North) with a wire fence and an EBL of the 36.55 acre tract to a 3/8" iron rod found for corner;

**THENCE** S 87°45'01" W, 366.42 feet (called West to Bayou) with a wire fence and a NBL of the 36.55 acre tract to its NWC, a 3/4" iron pipe found for corner at the NEC of a 5.30 acre tract described in a deed from T. M. Brewer, et ux, to James Wooten, et ux, dated January 29, 1998, recorded in Volume 1181, Page 251 of the DRNCT;

**THENCE** S 87°54'15" W, 371.46 feet with a wire fence and the NBL of the 5.30 acre tract to its NWC, a 3/4" iron pipe found for corner at the NEC of a 1.91 acre tract described in a deed from Clara Stone to John Stone, dated April 13, 1999, recorded in Volume 1325, Page 249 of the DRNCT;

**THENCE** S 86°25'03" W, with a wire fence, at 309.38 feet pass a 1/2" iron rod set for witness, and in all a total distance of 323.38 feet corner in the centerline of Castana Bayou (Eggnog Branch) at the SWC of the 83.5 acre tract and the EBL of the 0.75 acre tract;

**THENCE** with the meanders of the centerline of Castana Bayou (Eggnog Branch) and the EBL of the 0.75 acre tract as follows:

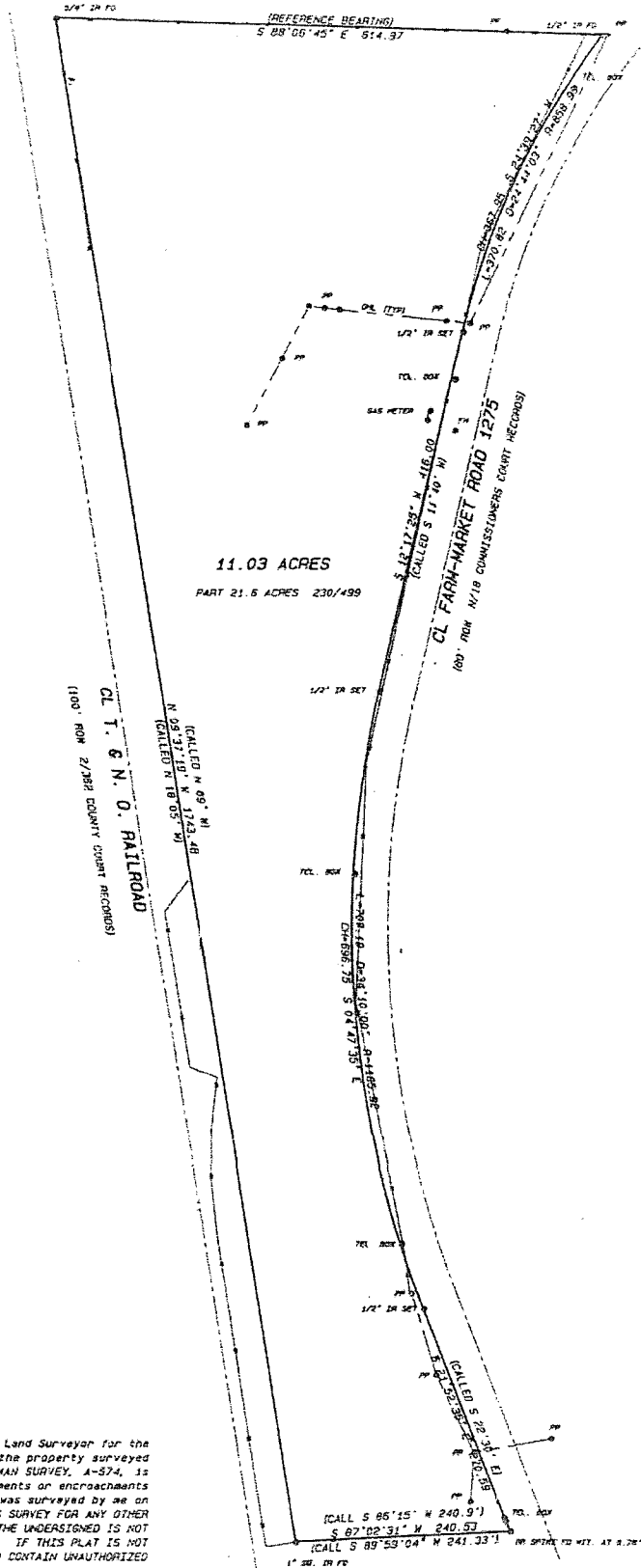
1. S 02°47'07" E, 31.79 feet;
2. S 23°33'29" W, 31.96 feet;
3. S 27°52'38" W, 40.20 feet to a 1/2" iron rod set for corner in the east right-of-way of Farm-Market Road 1275 at the SEC of a 0.209 acre tract described in a deed from Five Star Real Estate Partnership to the State of Texas, dated August 8, 1997, recorded in Volume 1141, Page 310 of the DRNCT, the SEC of a 0.209 acre tract described in a quit claim deed from Carolyn Bell, Individually and as Attorney in Fact for L. M. Henry to the State of Texas, dated June 26, 1997, recorded in Volume 1141, Page 304 of the DRNCT, and in the EBL of a 0.516 acre tract described in an instrument recorded in Volume 577, Page 88 of the DRNCT;

NOTES

1. SURVEYOR DID NOT ABSTRACT FOR EASEMENTS OR OWNERSHIP.
2. ON CLIENT'S INSTRUCTIONS, NO IMPROVEMENTS LOCATED.
3. SEE FIELD NOTES OF THIS DATE.

PARCEL "B"

4.29 ACRES 702/328



I, Tommy Findelsen, a duly Registered Professional Land Surveyor for the State of Texas hereby certify that the above plat of the property surveyed for TEXAS FARM PRODUCTS COMPANY on the J.D.G. VERRELHAN SURVEY, A-574, is true and correct, there are no visible or apparent easements or encroachments from adjoining owners (other than shown) and the same was surveyed by me on the ground the 30th day of November, 1995. USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM. IF THIS PLAT IS NOT SIGNED IN RED INK IT SHOULD BE ASSUMED TO BE A COPY AND CONTAIN UNAUTHORIZED MATERIAL.

*Tommy Findelsen*  
Tommy Findelsen  
Registered Professional Land Surveyor No. 1916

Exhibit "A"  
Page 5 of 8

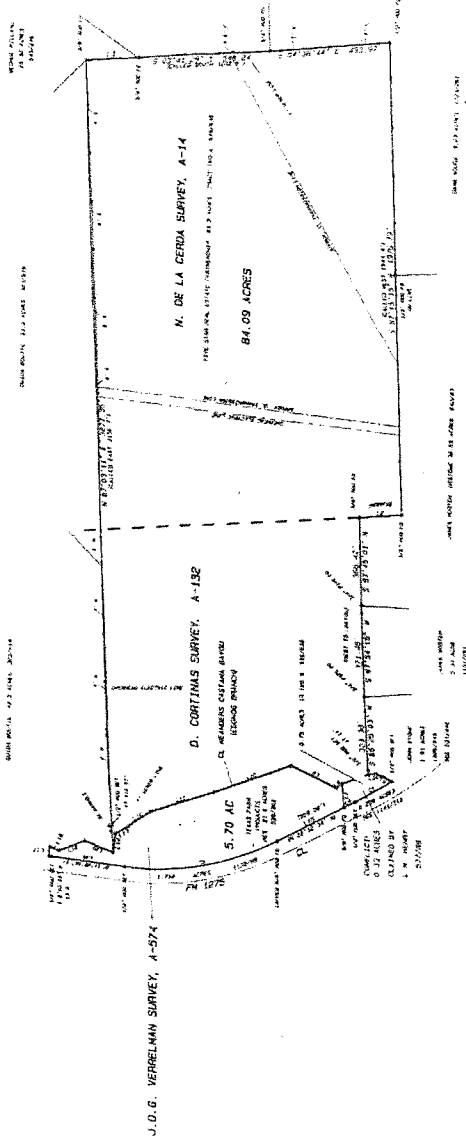
SURVEYED FOR TEXAS FARM PRODUCTS COMPANY	
N. T. SAMSON & ASSOCIATES	
1001 PARK STREET NACOGDOCHES, TEXAS 75361 PHONE (409) 581-8480 FAX (409) 581-7982	
J.D.G. VERRELHAN SURVEY, A-574, NACOGDOCHES COUNTY, TEXAS	
REVISIONS	DATE: NOVEMBER 30, 1995
NO. DATE REVISIONS	SCALE: 1" = 100'
	JOB NO. 347/95

PARCEL "C"

THIS PLAN IS A PART OF THE SURVEY OF THE LANDS BELONGING TO THE STATE OF TEXAS, AND IS SUBJECT TO THE ACTS OF THE LEGISLATURE OF SAID STATE, AND TO THE DECISIONS OF THE COURTS OF SAID STATE.

ACRES	FRAC.	ACRES	FRAC.	ACRES	FRAC.	ACRES	FRAC.
5.70	1/100	5.70	1/100	5.70	1/100	5.70	1/100

ACRES	FRAC.	ACRES	FRAC.	ACRES	FRAC.	ACRES	FRAC.
84.09	1/100	84.09	1/100	84.09	1/100	84.09	1/100



I, JOHN S. HANCOCK, Surveyor, do hereby certify that the above is a true and correct copy of the original survey as shown to me by the owner thereof, and that the same is in accordance with the original survey as shown to me by the owner thereof, and that the same is in accordance with the original survey as shown to me by the owner thereof.



REGISTERED FOR  
 THE STATE REAL ESTATE PATENTERS & TEXAS FARM PRODUCTS  
 JOHN S. HANCOCK  
 1001 W. 14TH ST.  
 DALLAS, TEXAS  
 1917



**THENCE** with the east right-of-way of Farm-Market Road 1275 and the WBL of the 0.209 acre tract as follows:

1. Northerly, 170.82 feet with a curve to the right having a radius of 1849.86 feet, a central angle of  $5^{\circ}17'27''$  and a chord of  $N 28^{\circ}49'08'' W$ , 170.76 feet to a  $\frac{1}{2}$ " iron rod set for corner;
2.  $N 26^{\circ}10'25'' W$ , 52.32 feet (called  $N 22^{\circ}32'34'' W$ ) to a  $\frac{5}{8}$ " iron rod found for corner at the NEC of the 0.209 acre tract, the SEC of a 1.216 acre tract described in a deed from Texas Farm Products to the State of Texas, dated July 3, 1997, recorded in Volume 1132, Page 69 of the DRNCT, in the SBL of a 21.6 acre tract described in a deed from Five Star Real Estate Partnership to Texas Farm Products, dated September 20, 1985, recorded in Volume 595, Page 362 of the DRNCT, and in the NBL of the 0.516 acre tract;

**THENCE**  $N 84^{\circ}59'25'' E$ , 98.35 feet with the NBL of the 0.75 acre tract, the SBL of the 1.216 acre tract and the NBL of the 0.516 acre tract to a point for corner in the centerline of Castana Bayou (Eggnog Branch) at the SEC of the 21.6 acre tract, the NEC of the 0.75 acre tract, in the WBL of the 83.5 acre tract and the NEC of the 0.516 acre tract;

**THENCE** with the meanders of the centerline of Castana Bayou (Eggnog Branch), the EBL of the 21.6 acre tract and the WBL of the 83.5 acre tract as follows:

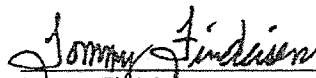
1.  $N 37^{\circ}42'16'' W$ , 29.67 feet;
2.  $N 27^{\circ}01'08'' E$ , 211.34 feet;
3.  $N 18^{\circ}28'50'' W$ , 337.82 feet;
4.  $N 16^{\circ}14'17'' W$ , 274.27 feet;
5.  $N 33^{\circ}44'02'' W$ , 108.05 feet;
6.  $N 30^{\circ}34'34'' W$ , 61.31 feet;
7.  $N 81^{\circ}55'24'' W$ , 80.34 feet to a point for corner at the NWC of the 83.5 acre tract and the occupied SWC of a 49.5 acre tract described in the aforementioned Boutte conveyance (383/919), from which a  $\frac{1}{2}$ " iron rod set for witness at a fence corner post on the north bank of said Bayou bears  $N 87^{\circ}03'11'' E$ , 116.07 feet;

**THENCE**  $N 87^{\circ}03'11'' E$ , (called East 3156.7') with the NBL of the 83.5 acre tract, the occupied SBL of the 49.5 acre tract and continuing with the SBL of the 33.5 acre tract and intermittently with a wire fence, at 116.07 feet pass a  $\frac{1}{2}$ " iron rod set for witness, and in all a total distance of 3277.35 feet to the place of **BEGINNING** containing within these calls 84.09 acres.

Bearings and distances are referred to the Texas Coordinate System of 1983, Cors 96, Central Zone, U. S. Survey Feet having an angle of convergence of  $+02^{\circ}55'45''$  and a CF of 0.99992224.

See plat of this date.

I, Tommy Findeisen, a duly Registered Professional Land Surveyor for the State of Texas hereby state that the above field note description was prepared from a survey made by me on the ground this the 15<sup>th</sup> day of September, 2010. USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

  
Tommy Findeisen  
Registered Professional Land Surveyor No. 1915

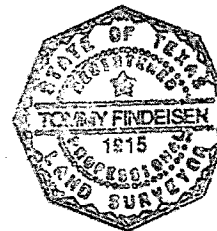


Exhibit "B"

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.  
VCP No. 2005

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? / /	<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>6</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>6</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.

[Signature]  
Applicant Signature

2-16-11  
Date

Before me C. Westbrook the undersigned authority, on this day personally appeared  
Name of Notary  
Anna Rogers and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of Texas State of Texas, on the  
day of February, this month of February, 2011.

