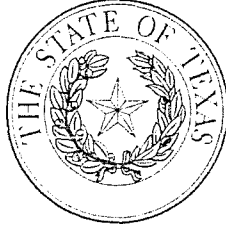


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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. 98 in the City of Houston, 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 5th day of October, 2009

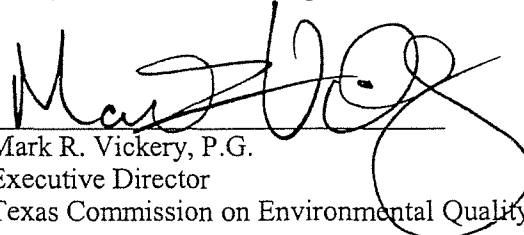

Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

Being a tract of land containing 8.5103 acres (370,707 square feet) situated in the Henry H. Cone Survey A-191 in Harris County, Texas as conveyed unto A.M. Smith by General Warranty deed recorded under County Clerk's File No. F570053, Film Code Number 193-06-1504, and amended by Correction deed filed under County Clerk's File No. G069980 Film Code Number 127-86-0177, in the Official Public Records of Real Property of Harris County, Texas. Said 8.5103-acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a cut X set for the south cutback corner at the intersection of the south right-of-way of West Belfort Avenue (based on a 100 foot width) and the west right-of-way of South Gessner Road (based on a 100 foot width) for the southernmost Northeast corner of said tract herein described;

THENCE South $02^{\circ} 22' 10''$ East coincident with said west right-of-way of said South Gessner Road, a distance of 268.45 feet to a 5/8 inch iron rod found for the Southeast corner said tract herein described;

THENCE South $87^{\circ} 31' 37''$ West, a distance of 1 067.96 feet to a 5/8 inch iron rod found for the southwest corner of the herein described tract of land;

THENCE North $02^{\circ} 22' 30''$ West, a distance of 470.11 feet to a 5/8 inch iron rod set in the south right-of-way line of said West Belfort Avenue and for the Northwest corner said tract herein described;

THENCE South $77^{\circ} 49' 28''$ East coincident with said South right-of-way of said West Belfort Avenue, a distance of 492.64 feet to a 5/8 inch iron rod set for the beginning of a curve to the left of said tract herein described;

THENCE continuing in a southeasterly direction with said curve to the left whose central angle is $14^{\circ} 26' 56''$ and whose radius is 2050.00 feet (chord bears South $85^{\circ} 02' 56''$ East, a distance of 515.60 feet) for a curve length of 516.97 feet to a 5/8 inch iron rod with cap set for a point of tangency point located in the South right-of-way of said West Belfort Avenue;

THENCE North $87^{\circ} 43' 31''$ East, coincident with said South right-of-way of said Elgin Avenue, a distance of 69.67 feet to a cut X set in a concrete sidewalk for the Westernmost Northeast corner of said tract herein described;

THENCE South $47^{\circ} 03' 31''$ East, a distance of 14.34" feet to a to the POINT OF BEGINNING and containing 8.51 03-acres (370,707 square feet) of land, more or less. ,

SAVE, EXCEPT AND EXCLUDING a 0.458149 acre tract described as follows:

LEGAL DESCRIPTION

0.458149 TRACT

SURVEY OF AN 0.458149 Acre (19,956.9514 square feet) Tract of land, being as existing and to found corners, and being further described as being out of the Northeasterly portion of a total 8.510350 acre tract of land as described by the deed conveyed from Wycliffe - U.S., a joint venture, to Randalls Properties, Inc., dated July 20, 1982, and recorded in Clerk's File No. H-537762 of the Deed Records of Harris County, Texas, and the said total 8.510350 acre tract of land being also as shown by the survey plat prepare by R. W. Patrick' Associates, Inc. under job number S-71-82 and dated July 16, 1982: lying in the Henry H. Cone Survey, Abstract No. 191; being located in the Southwesterly quadrant of the existing intersection of West Bellfort Avenue (being an existing 100.00 feet wide right-of-way) with South Gessner Road (being an existing 100.00 feet wide right-of-way at the location of this property); being in Houston, Harris County, Texas: and the said 0.458149 Acre Tract of land being more particularly described by Metes and Bounds as follows:

COMMENCING at a found 5/8 inch iron rod, lying on the existing Southerly right-of-way (R.O.W.) line of the said West Bellfort Avenue (being an existing 100.00 feet wide R.O.W.), and being the existing most Westerly Northeasterly corner of the said Randalls Properties, Inc. total surveyed B.510350 acre tract of land, and being also the existing Northwesterly corner of the existing Southwesterly corner cut-back line between the existing Southerly R.O.W. line of the said West Bellfort Avenue (being an existing 100.00 feet wide R.O.W.) with the existing Westerly R.O.W. line of the said South Gessner Road (being an existing 100.00 feet wide R.O.W.) for the most Westerly Northeasterly corner of the herein described 0.458149 Acre Tract of land, and being also the PLACE OF BEGINNING:

THENCE South 47° 03' 31" East along the said existing Southwesterly corner cut-back line between the existing Southerly R.O.W. line of the said West Bellfort Avenue (being an existing 100.00 feet wide R.O.W.) with the existing Westerly R.O.W. line of the said South Gessner Road (being an existing 100.00 feet wide R.O.W.) and being also along the existing most Northeasterly line of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, a distance of 14.34 feet to a found 5/8 inch iron rod, lying on the existing Westerly R.O.W. line of the said South Gessner Road (being an existing 100.00 feet wide R.O.W.) and being the existing Southeasterly corner of the said existing Southwesterly corner cut-back line between the existing Southerly R.O.W. line of the said West Bellfort Avenue (being an existing 100.00 feet wide R.O.W.) with the existing Westerly R.O.W. line of the said South Gessner Road (being an existing 100.00 feet wide R.O.W.), and being also the existing most Easterly Northeasterly corner of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, for the most Easterly Northeasterly corner of the herein described tract of land;

THENCE South 02° 22' 10" East along the existing Westerly R.O.W. line of the said South Gessner Road (being an existing 100.00 feet wide R.O.W.), and being also along part of the existing Easterly line of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, a distance of 103.45 feet to a set 5/8 inch iron rod, for the Southeasterly corner of the herein described tract of land;

THENCE South $87^{\circ} 31' 37''$ West across a Northeasterly corner of the said Randalls Properties, Inc. total called 8.510350 acre tract of land, a distance of 175.00 feet to a set 5/8 inch iron rod, for the Southwesterly corner of the herein described tract of land;

THENCE North $02^{\circ} 22' 10''$ West across a Northeasterly corner of the said Randalls Properties, Inc. total called 8.510350 acre tract of land, a distance of 116.45 feet to a set 5/8 inch iron rod, lying on the existing Southerly R.O.W. line of the said West Belfort Avenue (being an existing 100.00 feet wide R.O.W.), and lying also on an existing Northerly line of the said Randalls Properties, Inc. total called 8.510350 acre tract of land, and being also an established point on an existing curve to the left having a radius of 2,050.00 feet, for the Northwesterly corner of the herein described tract of land;

THENCE in an Easterly direction along the existing Southerly R.O.W. line of the said West Belfort Avenue (being an existing 100.00 feet wide R.O.W.), and being also along part of an existing Northerly line of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, and being also along the said existing curve to the left having a radius of 2,050.00 feet and a central angle of $02^{\circ} 39' 47''$, an arc length distance of 95.28 feet to a found 5/8 inch iron rod, being the existing Point Of Tangent of the said curve to the left having a radius of 2,050.00 feet, and being also an existing Northerly corner of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, for a Northerly corner of the herein described tract of land;

THENCE North $87^{\circ} 43' 31''$ East along the existing Southerly R.O.W. line of the said West Belfort Avenue (being an existing 100.00 feet wide R.O.W.), and being also along an existing Northerly line of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, a distance of 69.67 feet to a found 5/8 inch iron rod, being the existing most Westerly Northeasterly corner of the said Randalls Properties, Inc. total surveyed 8.510350 acre tract of land, and being also the existing Northwesterly corner of the said existing Southwesterly corner cut-back line between the existing Southerly R.O.W. line of the said West Belfort Avenue (being an existing 100.00 feet wide R.O.W.) with the existing Westerly R.O.W. line of the said South Gessner Road (being an existing 100.00 feet wide R.O.W.) for the most Westerly Northeasterly corner of the herein described tract of land, and being also PLACE OF BEGINNING;

CONTAINING 0.458149 Acres (19,956.9514 square feet) of land, more or less.

' 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
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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.
VCP No. 1247

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 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? 8 / /2000	<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.

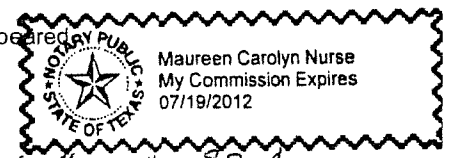
I affirmatively state that (place an X in all applicable blanks):

- 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.

Maureen Carolyn Nurse
Applicant Signature

12/23/08
Date

Before me MAUREEN CAROLYN NURSE the undersigned authority, on this day personally appeared MICHAEL MARCON and signed this Municipal Setting Designation Application.
Name of Notary Name of Applicant



Sworn, subscribed and signed before me in the County of HARRIS, State of TX, on the 23 r-4 day of DECEMBER this month of DECEMBER, 2008