

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

October 22, 2009

Mr. Paul Holton, Vice President of Operations
Ben E. Keith Company
7001 Will Rogers Boulevard
Fort Worth, Texas 76140

RE: Municipal Setting Designation (MSD) Certificate for Ben E. Keith Company
1602, 1615, 1621, 1631, 1700, 1805, 1840, and 1901 Record Crossing; 5920 and
6101 Wyche; 1606, 1611, 1625, 1707, 1735, 1747, 1755, 1819, and 1823 Hiton;
1608, 1716, 1840, 1852 Plantation; Dallas, Dallas County, Texas; MSD No. 115

Dear Mr. Horton:

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) 239-2960 or via e-mail (rgoldsmi@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "R. Stuart Goldsmith".

R. Stuart Goldsmith, Project Manager
VCP-CA Section
Remediation Division

RSG/jdm

Enclosure

cc: Mr. Sonny Rayos, VCP 2011 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 for MSD No. 115, in the City of Dallas, 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 16th day of October, 2009

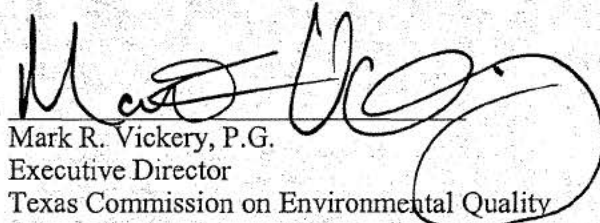
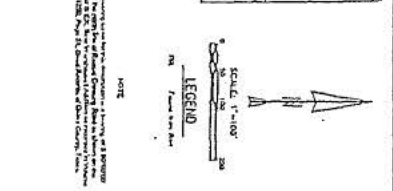
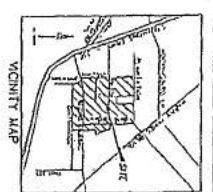
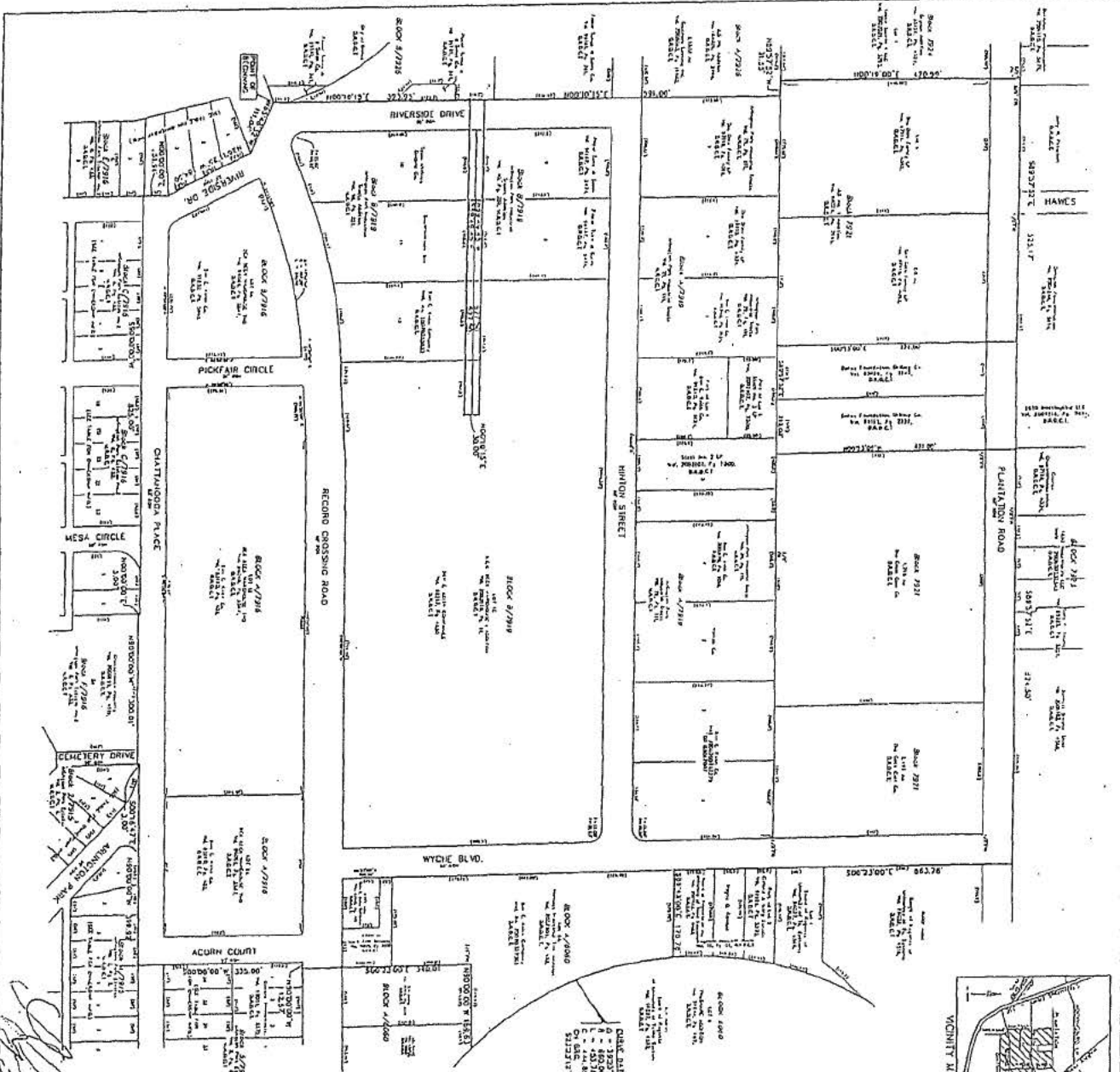
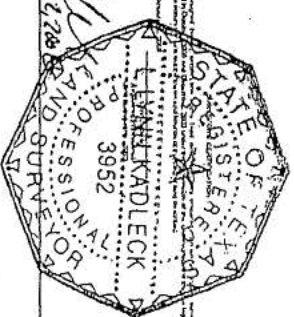

Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

Exhibit A



Block	Acres	Square Feet
Block 4/7916	1.14	48,500
Block 4/7918	1.14	48,500
Block 4/7919	1.14	48,500
Block 4/7920	1.14	48,500
Block 4/7921	1.14	48,500
Block 4/7922	1.14	48,500
Block 4/7923	1.14	48,500
Block 4/7924	1.14	48,500
Block 4/7925	1.14	48,500
Block 4/7926	1.14	48,500
Block 4/7927	1.14	48,500
Block 4/7928	1.14	48,500
Block 4/7929	1.14	48,500
Block 4/7930	1.14	48,500
Block 4/7931	1.14	48,500
Block 4/7932	1.14	48,500
Block 4/7933	1.14	48,500
Block 4/7934	1.14	48,500
Block 4/7935	1.14	48,500
Block 4/7936	1.14	48,500
Block 4/7937	1.14	48,500
Block 4/7938	1.14	48,500
Block 4/7939	1.14	48,500
Block 4/7940	1.14	48,500
Block 4/7941	1.14	48,500
Block 4/7942	1.14	48,500
Block 4/7943	1.14	48,500
Block 4/7944	1.14	48,500
Block 4/7945	1.14	48,500
Block 4/7946	1.14	48,500
Block 4/7947	1.14	48,500
Block 4/7948	1.14	48,500
Block 4/7949	1.14	48,500
Block 4/7950	1.14	48,500
Block 4/7951	1.14	48,500
Block 4/7952	1.14	48,500
Block 4/7953	1.14	48,500
Block 4/7954	1.14	48,500
Block 4/7955	1.14	48,500
Block 4/7956	1.14	48,500
Block 4/7957	1.14	48,500
Block 4/7958	1.14	48,500
Block 4/7959	1.14	48,500
Block 4/7960	1.14	48,500
Block 4/7961	1.14	48,500
Block 4/7962	1.14	48,500
Block 4/7963	1.14	48,500
Block 4/7964	1.14	48,500
Block 4/7965	1.14	48,500
Block 4/7966	1.14	48,500
Block 4/7967	1.14	48,500
Block 4/7968	1.14	48,500
Block 4/7969	1.14	48,500
Block 4/7970	1.14	48,500
Block 4/7971	1.14	48,500
Block 4/7972	1.14	48,500
Block 4/7973	1.14	48,500
Block 4/7974	1.14	48,500
Block 4/7975	1.14	48,500
Block 4/7976	1.14	48,500
Block 4/7977	1.14	48,500
Block 4/7978	1.14	48,500
Block 4/7979	1.14	48,500
Block 4/7980	1.14	48,500
Block 4/7981	1.14	48,500
Block 4/7982	1.14	48,500
Block 4/7983	1.14	48,500
Block 4/7984	1.14	48,500
Block 4/7985	1.14	48,500
Block 4/7986	1.14	48,500
Block 4/7987	1.14	48,500
Block 4/7988	1.14	48,500
Block 4/7989	1.14	48,500
Block 4/7990	1.14	48,500
Block 4/7991	1.14	48,500
Block 4/7992	1.14	48,500
Block 4/7993	1.14	48,500
Block 4/7994	1.14	48,500
Block 4/7995	1.14	48,500
Block 4/7996	1.14	48,500
Block 4/7997	1.14	48,500
Block 4/7998	1.14	48,500
Block 4/7999	1.14	48,500
Block 4/8000	1.14	48,500



DESIGNATED PROPERTY BOUNDARY
53.3614 ACRE TRACT
CITY OF DALLAS BLOCKS 6060, A/6060,
B/7916, A/7919, B/7919 & 7921
HIRSH BENNETT SURVEY, ABSTRACT NO. 83
DALLAS COUNTY, TEXAS
LYNN KADLECK & ASSOCIATES
 11111 W. LAKOTA AVE., SUITE 100
 DALLAS, TEXAS 75247
 (214) 343-1111

"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 type="radio"/> Yes	<input type="radio"/> No ³	<input checked="" 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.
See Attachment A for list.

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? 12/ 19 /06 ¹	<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.

Ben E. Keith Company, Inc.

By: *[Signature]*
Applicant Signature

6/30/09
Date

Before me *Christina Rodriguez* the undersigned authority, on this day personally appeared
Paul Holton Name of Notary
Paul Holton Name of Applicant and signed this Municipal Setting Designation Application.

Sworn, subscribed and signed before me in the County of Tarrant, State of Tx, on the 30th day of June, this month of June, 2009.

TCEQ-20149 June 2007



¹ Date when Ben E. Keith submitted its VCP Application to TCEQ.