

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 3, 2010

Ms. Jane Smith, President  
Smiths Enterprise, Inc.  
9876 Main Street  
Anytown, TX 78912

Re: Certificate of Completion (COC)  
Smiths Office Park, 9876 Main Street, Anytown, Williams County; Voluntary Cleanup Program (VCP) No. 123; Customer No. CN123456789; Regulated Entity No. RN987654321

Dear Ms. Smith:

The Texas Commission on Environmental Quality (TCEQ) has reviewed the January 1, 2009 report entitled Response Action Completion Report (RACR) as well as other requested information. Based on this review, the TCEQ has determined that the site has attained Texas Risk Reduction Program Remedy Standard A residential land use standards for all exposure pathways except the groundwater ingestion (<sup>GW</sup>GW<sub>ing</sub>) pathway, in accordance with 30 Texas Administrative Code §350.32. The <sup>GW</sup>GW<sub>ing</sub> pathway has been satisfactorily addressed through the issuance of a Municipal Setting Designation (MSD) certificate pursuant to Texas Health and Safety Code §361.807. Therefore, the TCEQ issues the enclosed final COC. The TCEQ records for this site will be maintained at the Central Records office of the TCEQ in Austin, Texas.

Response actions performed in the VCP which do not attain residential health-protective levels or which rely upon physical controls, remediation systems, post-response action care, or permanent or non-permanent institutional controls require filing of the certificate in the real property records of the county in which the site is located in accordance with 30 TAC §333.9. Please submit proof of filing the certificate in the real property records no later than 90 days from the date of the certificate to my attention at the TCEQ, VCP-CA Section, mail code MC-221, at the letterhead address. Failure to submit proof of filing demonstrating that the certificate was filed within 90 days of issuance may result in termination of the VCP agreement and an enforcement action.

Please be aware that there may be outstanding charges reflecting TCEQ oversight activities that occurred prior to the date of this letter that may still be forthcoming. You may contact Jim Jones with any questions or comments you have at (512) 239-2200.

Sincerely,

*Division Director's Signature*

Brent Wade, Director  
Remediation Division

BW/xxx

cc: Mr. Will Turner, ABC Environmental Consulting, Inc., Anytown, TX  
Mr. John Anderson, Region 17 Office, Bigtown

Enclosure: COC

Example

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**VOLUNTARY CLEANUP PROGRAM  
FINAL CERTIFICATE OF COMPLETION**

This Final Certificate of Completion (Certificate) applies to the tract of land described in Exhibit "A", attached hereto and incorporated herein by reference. This Certificate and the related protection described herein apply solely to releases at the tract of land described in Exhibit "A" prior to the execution date of this Certificate. This Certificate shall be a covenant that runs with the land.

As provided in Section 361.609 of the Texas Health and Safety Code:

I, Brent Wade, Director of the Remediation Division, TCEQ, certify as follows:

Response actions have been completed for VCP No. 123 as of December 3, 2009, for the tract of land described in Exhibit "A" so that the tract is acceptable for residential land use.

This certification is based on the Affidavit of Completion of Response Action (Exhibit "B"), and is reliant upon a Municipal Setting Designation that has been certified by the TCEQ under Section 361.807 of the Health and Safety Code for this tract of land to prohibit use of groundwater. The Municipal Setting Designation Certificate is included as Exhibit "C", attached hereto and incorporated herein by reference, and on additional site information in TCEQ files.

The following persons are qualified to obtain the protection from liability described in Section 361.610 of the Texas Health and Safety Code:

- 1) An applicant who on the date of submittal of an application to the Voluntary Cleanup Program was not a responsible party under Sections 361.271 or 361.275(g) of the Texas Health and Safety Code; and
- 2) All persons (e.g., future owners, future lessors, future operators and lenders) who on the date of issuance of this Certificate were not responsible parties under Sections 361.271 or 361.275(g) of the Texas Health and Safety Code.

Further information concerning this matter may be found at the TCEQ Central File Room in Building E, Room 103, 12100 Park 35 Circle, Austin, Texas 78755 under Voluntary Cleanup Program No. 123.

EXECUTED this the 1<sup>st</sup> day of January 2010

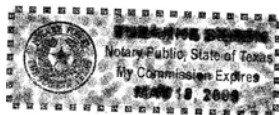
Division Director's Signature

Brent Wade, Director  
Remediation Division

STATE OF TEXAS  
TRAVIS COUNTY

BEFORE ME, on this the 1<sup>st</sup> day of January, personally appeared Brent Wade, Director of the Remediation Division of the Texas Commission on Environmental Quality, known to me to be a representative of said commission whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 1<sup>st</sup> day of January 2010



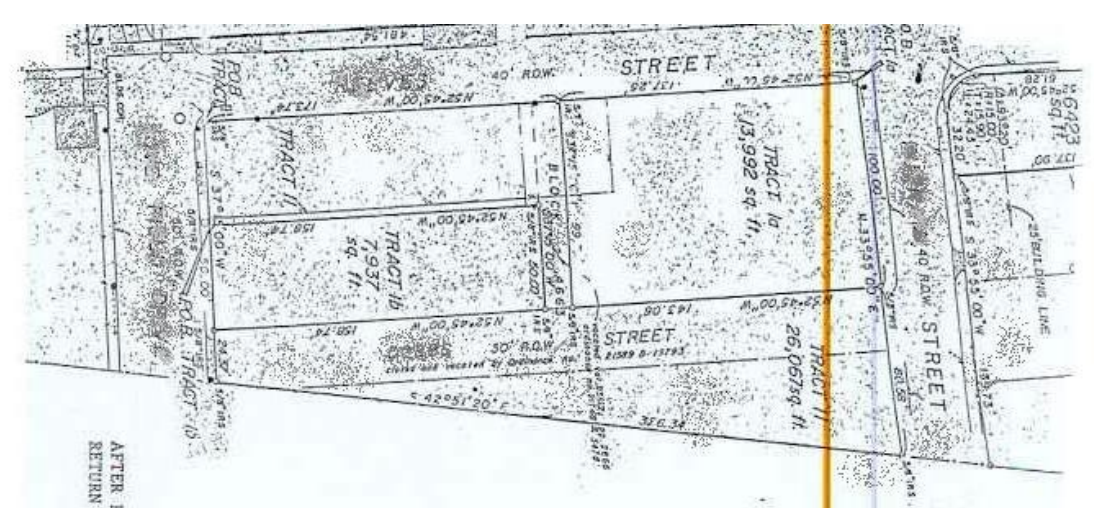
Notary's Signature for TCEQ

Notary Public in and for the State of Texas

***EXHIBIT "A"***  
***Legal Description of Site***  
***VCP No. 123***

The site is a 1.4 acre tract, more or less, located at 9876 Main Street, Anytown in the Bob Jones League 4, Abstract 18, recorded in Volume 250, Page 4 of the Deed of Records in Williams County, Texas; said 1.4 acre property is more particularly described as follows:

**Example**



AFTER RECORDING PLEASE  
RETURN TO:

DALENS  
ATTN: DAVE

Example

TRACT I  
 TRACT Ia (3,992 sq. ft.) and TRACT Ib (7,937 sq. ft.) are situated in the Southeast Quarter of Section 28, Township 13N, Range 10E, County of DeWitt, State of Texas. The total area of these tracts is 11,929 square feet. The survey was made by the undersigned on the 15th day of August, 1982.

TRACT II (7,937 sq. ft.) is situated in the Southeast Quarter of Section 28, Township 13N, Range 10E, County of DeWitt, State of Texas. The total area of this tract is 7,937 square feet. The survey was made by the undersigned on the 15th day of August, 1982.

TRACT III (26,067 sq. ft.) is situated in the Southeast Quarter of Section 28, Township 13N, Range 10E, County of DeWitt, State of Texas. The total area of this tract is 26,067 square feet. The survey was made by the undersigned on the 15th day of August, 1982.

**Exhibit A\***  
 Texas Natural Resources Conservation Commission  
 Legal Description of Property

The description made by the undersigned in the above recited instrument is correct and true to the best of his knowledge and belief, and he is not aware of any facts which might render the same incorrect or misleading. He certifies that the same are true and correct to the best of his knowledge and belief, and he is not aware of any facts which might render the same incorrect or misleading.

**PROPERTY SURVEY**  
 COUNTY TEXAS

DATE: 8/15/82  
 SURVEYOR: DALENS  
 ATTORNEY: DAVE



DATE	8/15/82
SURVEYOR	DALENS
ATTORNEY	DAVE
COUNTY	DEWITT
TOWNSHIP	13N
RANGE	10E

**EXHIBIT "B"**  
**Affidavit of Completion of Response Actions**  
**VCP No. 123**

BEFORE ME, the undersigned authority, on this day personally appeared Jane Smith, as an authorized representative of Smiths Enterprise, Inc., known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

Smiths Enterprise, Inc. (Applicant) has completed response actions pursuant to Chapter 361, Subchapter S, Texas Health and Safety Code, at the tract of land described in Exhibit "A" to this certificate that pertains to Smiths Office Park (Site), VCP No. 123 located at 9876 Main Street, Anytown, Williams County, Texas. The Site was owned by Smiths Enterprise, Inc. at the time the application to participate in the Voluntary Cleanup Program was filed. The Applicant has submitted and received approval from the Texas Commission on Environmental Quality (TCEQ) Remediation Division on all plans and reports required by the Voluntary Cleanup Agreement. The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all hazardous substances, waste and contaminated media of regulatory concern. The response actions for the Site have achieved standards acceptable for residential land use as determined by the TCEQ.

The response actions substantially eliminated present or future risk to public health and safety and to the environment from releases and threatened releases of hazardous substances and/or contaminants at or from the Site. The Applicant has not acquired this certificate of completion by fraud, misrepresentation or knowing failure to disclose material information. Further information concerning the response action at this Site may be found in the final report at the central office of the TCEQ under VCP No. 123.

The preceding is true and correct to the best of my knowledge and belief.

Applicant

Jane Smith's Signature

(Signature)

Jane Smith

(Printed Name)

President

(Title)

STATE OF Texas

COUNTY OF Williams

SUBSCRIBED AND SWORN before me on this the 3<sup>rd</sup> day of December 2009,  
to which witness my hand and seal of office.



Notary's Signature

Notary Public in and for the State of Texas

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. 123, in the City of Anytown, 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 1<sup>st</sup> day of January, 2010

Executive Director's Signature

Mark R. Vickery, P.G.

Executive Director

Texas Commission on Environmental Quality





MSD 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="checkbox"/> Yes	<input type="checkbox"/> No <sup>3</sup>	<input type="checkbox"/> 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.		
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 type="checkbox"/> Yes	<input type="checkbox"/> 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 type="checkbox"/> Yes, when? / /	<input type="checkbox"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="checkbox"/> Yes <sup>6</sup>	<input type="checkbox"/> 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="checkbox"/> Yes <sup>6</sup>	<input type="checkbox"/> 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="checkbox"/> Yes	<input type="checkbox"/> 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="checkbox"/> Yes	<input type="checkbox"/> 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 type="checkbox"/> Yes	<input type="checkbox"/> 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.

Jane Smith  
Applicant Signature

January 1, 2009  
Date

Before me Notary's name the undersigned authority, on this day personally appeared  
Name of Notary  
Jane Smith and signed this Municipal Setting Designation Application.  
Name of Applicant

Affix  
Notary  
Seal Here

Sworn, subscribed and signed before me in the County of Williams, State of TX, on the \_\_\_  
 day of 1st, this month of January, 2009.