

LORI WROTENBERY
DIRECTOR, OIL AND GAS DIVISION
SANTOS GONZALES JR., P.E.
ASSISTANT DIRECTOR, FIELD OPERATIONS

### RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

#### VOLUNTARY CLEANUP PROGRAM FINAL CERTIFICATE OF COMPLETION RELYING ON INSTITUTIONAL CONTROLS

As provided for Chapter 91, Subchapter 0, Texas Natural Resource Code.

I, PETER G. POPE, MANAGER OF THE SITE REMEDIATION SECTION, OIL AND GAS DIVISION, RAILROAD COMMISSION OF TEXAS, CERTIFY UNDER CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE, THAT NECESSARY RESPONSE ACTIONS HAVE BEEN COMPLETED FOR VOLUNTARY CLEANUP PROGRAM NO. 03-15003 AS OF October 11, 2016, FOR THE TRACT OF LAND DESCRIBED IN EXHIBIT "A", BASED ON THE AFFIDAVIT OF COMPLETION OF RESPONSE ACTION AND INSTITUTIONAL CONTROLS IN EXHIBIT "B". APPLICANTS WHO WERE NOT RESPONSIBLE PARTIES UNDER SECTION 91.113 ON THE DATE OF ISSUANCE OF THIS CERTIFICATE ARE QUALIFIED TO OBTAIN THE PROTECTION FROM LIABILITY PROVIDED BY CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE.

EXECUTED this the 2nd day of November 2016.

Peter G. Pope, P.G.

Manager, Site Remediation

STATE OF TEXAS

**COUNTY OF TRAVIS** 

BEFORE ME, personally appeared Peter G. Pope, Assistant Director, Remediation Section, of the Railroad Commission of Texas, known to me to be the person and agent 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, the 2nd day of November 2016.



Notary Public in and for the State of Texas

# EXHIBIT "A" RAILROAD COMMISSION OF TEXAS VOLUNTARY CLEANUP PROGRAM LEGAL DESCRIPTION 17.4310-ACRE TRACT

VCP No. 03-15003

Jacob Townsend Survey Abstract No. 25

STATE OF TEXAS

§

COUNTY OF CHAMBERS §

A METES & BOUNDS description of a certain 17.4310 acre tract of land situated in the Jacob Townsend Survey, Abstract No. 25 in Chambers County, Texas; being a portion of a called 254.14 acre tract of land conveyed to Grand Parkway/Kilgore Parkway, LP by Special Warranty Deed recorded in Volume (08) 1067, Page 264 of the Chambers County Deed Records; said 17.4310 acre tract being more particularly described as follows with all bearings being based on the Texas Coordinate System, South Central Zone, NAD 83;

COMMENCING at a found 3/4-inch rod (with cap stamped "Cotton Surveying") in the south line of said 254.14 acre tract and said Jacob Townsend Survey, being in the east right-of-way line of State Highway 99 (400 feet wide at this point), a called 40.801 acre tract (Parcel 18) described in Cause No. 22241 Judgment by 334th District Court of Chambers County recorded in Volume (09) 1145, Page 499 of the Chambers County Official Public Records, from said iron rod a found 5/8-inch iron rod (with cap stamped "5206") bears South 06°10'27" West, 0.84 feet, said 3/4-inch iron rod being in the arc of a non-tangent curve to the right;

THENCE, along the east line of said State Highway 99 and along said non-tangent curve to the right having a radius of 3619.72 feet, a central angle of 5°21'09", an arc length of 338.15 feet, and a long chord bearing North 10°09'33" East, 338.02 feet to a found 3/4-inch iron rod (with cap stamped "Cotton Surveying") for the **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing along the east line of said State Highway 99 and said non-tangent curve to the right having a radius of 3619.72 feet, a central angle of 11°11'37", an arc length of 707.16 feet, and a long chord bearing North 18°25'56" East, 706.04 feet to a found 3/4-inch iron rod (with cap stamped "Cotton Surveying") for the southwest corner of a called 0.1159 acre tract of land recorded in Volume 1276, Page 23 of the Chamber County Official Public Records;

THENCE, North 69°09'09" East, along the east line of the said 0.1159 acre tract, 143.05 feet to a found 3/4-inch iron rod (with cap stamped "Cotton Surveying") in the south right-of-way line of Kilgore Parkway (120 feet wide) described in Donation Deed to Chambers County recorded in Volume (09) 1148, Page 479 of the Chambers County Official Public Records, said iron rod being in a non-tangent curve to the left;

THENCE, along the south right-of-way line of said Kilgore Parkway and along the arc of said non-tangent curve to the left having a radius of 1880.00 feet, a central angle of 30°00'05", an arc length of 984.41 feet, and a long chord bearing South 83°02'09" East, 973.20 feet, to a point for corner;

THENCE, South 00°00'24" West, 449.41 feet to a set 3/4-inch iron rod (with cap stamped "Cotton Surveying") for corner;

Page 7 of 9

Jacob Townsend Survey Abstract No. 25

THENCE, North 89°59'58" East, 99.99 feet to a set 3/4-inch iron rod (with cap stamped "Cotton Surveying") for corner;

THENCE, South 00°07'05" East, 64.83 feet to a set 3/4-inch iron rod (with cap stamped "Cotton Surveying") for corner;

THENCE, South 87°38'49" West, 405.90 feet to a set 3/4-inch iron rod (with cap stamped "Cotton Surveying") for corner in the west line of a called 5.840 acre Detention Pond Site conveyed to Chamber County Improvement District No. 3 recorded in Volume (11) 1292, Page 274 of the Chambers County Official Public Records;

THENCE, South 02°08'32" East, along said west line, 30.00 feet to a found 3/4-inch iron rod (with cap stamped "Cotton Surveying") for corner;

THENCE, South 87°38'51" West, 1831.24 feet to the **POINT OF BEGINNING**, **CONTAINING** 17.4310 acres of land in Chambers County, Texas, as shown on Drawing No. 8922 in the office of Cotton Surveying Company in Houston, Texas.

Cotton Surveying Company 6335 Gulfton, Suite 100 Houston, TX 77081-1169 (713) 981-0275

Texas Board of Professional Land Surveying

Rogistration No. 10046100

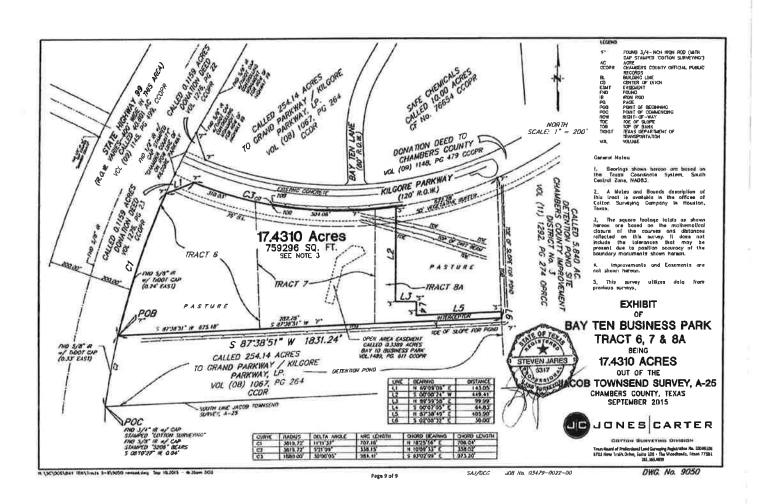
Acting By/Through Steven Jares

Registered Professional Land Surveyor

No. 5317

SJares@jonescarter.com





2016 BK 116405 OR

FILED FOR RECORD IN:

Chambers County

ON: OCT 11, 2016 AT 11:15A

AS A(N) Public Records

Heather H. Hawthorne, COUNTY CLERK

CLERK NUMBER 116405 PAGES

AMOUNT:

58.00

RECEIPT NUMBER 16008686

BY CGOBERT
STATE OF TEXAS Chambers County COUNTY, TEX
AS STAMPED HEREON BY ME. OCT 11, 2016

Scott Drewry handed back

# EXHIBIT "B" RAILROAD COMMISSION OF TEXAS VOLUNTARY CLEANUP PROGRAM AFFIDAVIT OF COMPLETION OF RESPONSE ACTION AND INSTITUTIONAL CONTROLS

VCP No. 03-15003

# EXHIBIT "B" RAILROAD COMMISSION OF TEXAS VOLUNTARY CLEANUP PROGRAM AFFIDAVIT OF COMPLETION OF RESPONSE ACTION AND INSTITUTIONAL CONTROLS

I, Dan T. Moody, representing Grand Parkway/Kilgore Parkway, L.P., have completed the necessary response actions, pursuant to Chapter 91, Subchapter O, Texas Natural Resource Code, at a 17.4310-acre tract of land described in Exhibit "A" (Site) of this certificate pertaining to Voluntary Cleanup Program (VCP) No. 03-15003 located in Mont Belvieu, Chambers County, Texas. The applicant has submitted and received approval from the Railroad Commission of Texas (RRC) 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 contaminants, waste and contaminated media of regulatory concern. The response actions for the site have achieved response action levels as determined by the standards of the RRC and remain protective as long as the following controls are maintained:

- 1. Use of the Affected Property shall not be allowed for residential purposes.
- 2. Use of the groundwater from within the first 100 feet below the ground surface beneath the **Affected Property** shall not be allowed except for monitoring purposes.
- 3. Penetration or excavation of the impacted groundwater for any purpose shall only be conducted in such a manner as to prevent migration or release of contaminants to any other zone of media and to prevent uncontrolled exposure to human and ecological receptors.
- 4. These restrictions shall be a covenant running with the land.

These restrictions were filed in the Chambers County Clerk's office on October 11, 2016, Document 116405 (Attachment 1). The response actions eliminate substantial present or future risk to public health and safety and to the environment from releases and threatened releases of 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 actions at this Site may be found in the final report at the central office of the RRC under VCP No. 03-15003.

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

**Applicant** 

Print Name:

STATE OF TEXAS COUNTY OF CHAMBERS

BEFORE ME, personally appeared Dan T. Mody

known to me to be the person and agent 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 2 day of Detolor 2016.

### Attachment 1 Institutional Control Document 116405 Chambers County, Texas

OFFICIAL PUBLIC RECORDS CHAMBERS COUNTY, TEXAS Heather H. Hawthorne, County Clerk

## Railroad Commission of Texas Environmental Restrictive Covenant

STATE OF TEXAS	§	2016 116405	VOL 1690	
COUNTY OF CHAMBERS	8			

This Restrictive Covenant is filed pursuant to the authority of the Railroad Commission of Texas (Commission) to control and clean up pollution caused by activities over which the Commission exercises jurisdiction in accordance with Section 91.113 of the Texas Natural Resources Code, and affects the real property (Affected Property) described as follows:

Grand Parkway/Kilgore Parkway, LP is the current Owner of the **Affected Property** and premises, and appurtenances thereto, located in Chambers County, Texas, consisting of a 17.4310-Acre Tract out of the Jacob Townsend Survey, Abstract No. 25 in Chambers County, Texas, according to deed recorded in Volume (08) 1067, Page 264 in the Deed Records of the office of the Chambers County Clerk, Chambers County, Texas, with a metes and bounds description as more fully described on **Exhibit A**, which exhibit is attached hereto and incorporated herein.

Soil and groundwater on the Affected Property is affected by a certain identified chemical of concern.

#### This restrictive covenant is required for the following reasons:

The **Affected Property**, otherwise known as Tracts 6, 7, and 8A Bay 10 Business Park, is an undeveloped tract of land that was historically developed for oil and/or gas exploration and production (E&P) in the 1930s. A chemical of concern (chloride) attributable to the former oil and/or gas E&P activities impacted soil and groundwater on the **Affected Property** and an environmental investigation and response action was required in accordance with Commission regulations. Grand Parkway/Kilgore Parkway, LP performed the response action to characterize and remediate the chemical of concern. The response action was performed in such a manner that the following chemical of concern at the following maximum level at the time of restrictive covenant filing was left in soil and groundwater: chloride at a maximum concentration of 9,700 parts per million (ppm) in soil, and chloride at a maximum concentration of 31,100 ppm in groundwater.

The investigation, assessment, and analytical data are contained in the following reports and/or documents:

- i. Phase I Environmental Site Assessment & Phase II Assessment, Approximately 9.9081 ± Acres Located along Kilgore Parkway, Mont Belvieu, Chambers County, Texas 77523, dated December 15, 2014.
- ii. Site Investigation and Data Screening Evaluation Report (SIR), Bay 10 Business Park Tracts 6, 7, & 8, State Highway 99 (Grand Parkway) and Kilgore Parkway, Mont Belvieu, Chambers County, Texas, dated May 4, 2015.
- iii. Supplemental Information for SIR, Bay 10 Business Park Tracts 6, 7, & 8, State Highway 99 (Grand Parkway) and Kilgore Parkway, Mont Belvieu, Chambers County, Texas, dated June 4, 2015.
- iv. Response to RRC Comment Letter, Bay 10 Business Park Tracts 6, 7, 8A, and 8B) State Highway 99 (Grand Parkway) and Kilgore Parkway Mont Belvieu, Chambers County, Texas, dated September 17, 2015.

v. Groundwater Monitoring Report, Bay 10 Business Park – Tracts 6, 7, 8A, and 8B), State Highway 99 (Grand Parkway) and Kilgore Parkway Mont Belvieu, Chambers County, Texas, dated December 11, 2015.

Copies of the reports may be obtained from SKA Consulting, LP, 1888 Stebbins Drive, Suite 100, Houston, Texas 77043 and from the RRC under VCP No. 03-15003.

The response action has been approved by the Commission based upon the presumption that the Affected Property will be used exclusively for commercial/industrial purposes, and will not be put to residential use, and the groundwater from within the first 100 feet below the surface beneath the Affected Property will not be used for any purpose, except monitoring. The Commission has determined that the Affected Property currently meets standards for commercial/industrial use. Based on information contained in the reports identified above, the chemical of concern poses no present or future risk to humans or the environment based on commercial/ industrial use. With the filing of this document, the Commission does not require any further remediation of the Affected Property as long as the Affected Property is not put to residential use and/or the groundwater from within the first 100 feet below the surface is not used for any purpose other than monitoring.

For purposes of this Covenant, the term "residential use" means use for dwellings such as single family houses and multi-family apartments, children's homes, nursing homes, residential portions of government-owned lands (local, state, or federal), day care facilities, educational facilities, hospitals, residential portions of ranch and farm land, and parks (local, state, or federal).

This restrictive covenant is necessary to assure that all present and future owners of the **Affected Property** are aware of its condition and do not use the **Affected Property** in any manner inconsistent with this restriction. If any person desires to use the **Affected Property** in the future in any manner inconsistent with the restrictions described in this covenant, the Commission must be notified at least 60 days in advance of such use. Additional response action contemplating a change in land use or in the size of the assumed exposure area may be necessary. The additional response action must be approved by the Commission and completed prior to commencement of the new use of the **Affected Property**.

In consideration of the Response Action leading to final approved remediation of the **Affected Property**, the Owner of the **Affected Property** has agreed to place the following restrictions on the Property in favor of the Commission and the State of Texas. Now therefore, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following restrictive covenants in favor of the Commission and the State of Texas are placed on the **Affected Property** described in Exhibit "A", to-wit:

- 1. Use of the **Affected Property** shall not be allowed for residential purposes as defined by this Covenant.
- 2. Use of the groundwater from within the first 100 feet below the ground surface beneath the **Affected Property** shall not be allowed except for monitoring purposes.
- 3. Penetration or excavation of the impacted groundwater zones for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
- 4. These restrictions shall be a covenant running with the land.

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#### For additional information, contact:

Railroad Commission of Texas Oil and Gas Division Site Remediation Section P.O. Box 12967 1710 N. Congress Austin, Texas 78711-2967

Railroad Commission of Texas Voluntary Cleanup Program No. 03-15003. As of the date of the Covenant, the record owner of fee title to the **Affected Property** is owned by Grand Parkway/Kilgore Parkway, LP with an address of c/o Parkside Capital, LLC, 3003 W. Alabama, Houston, Texas 77098.

This Restrictive Covenant may be rendered of no further force or effect only by a release executed by the Commission and filed in the same Real Property Records as those in which this Restrictive Covenant is filed.

Executed this 15 day of Septenter, 20/4			
	Grand Parkway/Kilgore Parkway, LP		
	Signature:		
	Printed Name: Dan T Mood		
	Title:		
STATE OF TEXAS CHAMBERS COUNTY			
Dan Moudy, Mil Pri	hember, 20 / personally appeared how to me to be the person whose they acknowledged to me that they executed the same id.		
GIVEN UNDER MY HAND AND SEAL OF OFF	ICE this the 15 day of September 2010.		
	Signature:		
	Notary Public in and for the State of Texas		
LAUREN FERRANTE Notary Public. State of Texas My Commission Expires April 01, 2017	County of Harris		
	My Commission Expires: April 1, 2017		

2016 BK VOL PG 116405 OR 1690 324

Accepted as Third Party Beneficiary this the 27th day of September 1016			
Railroad Commission of Texas  By: Natalie Drubiel  Name: Natalie Dubiel  Title: PPL Staff attorney			
STATE OF TEXAS TRAVIS COUNTY  BEFORE ME on this the day of System ber 20 16 personally appeared  Advantage Dubied, Horney on behalf of the Site Remediation Section of the Oil and Gas Division of the Railroad Commission of Texas, 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 herein expressed.			
GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 2 day of Sykuber 2016 Signature: Results of Signature 2016			
RESHMA S. CHARLES  Notary Public in and for the State of Texas  County of			

2016 BK VOL PG 116405 OR 1690 325

### Exhibit A

Jacob Townsend Survey Abstract No. 25

STATE OF TEXAS

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**COUNTY OF CHAMBERS §** 

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THENCE, along the east line of said State Highway 99 and along said non-tangent curve to the right having a radius of 3619.72 feet, a central angle of 5°21'09", an arc length of 338.15 feet, and a long chord bearing North 10°09'33" East, 338.02 feet to a found 3/4-inch iron rod (with cap stamped "Cotton Surveying") for the **POINT OF BEGINNING** of the herein described tract;

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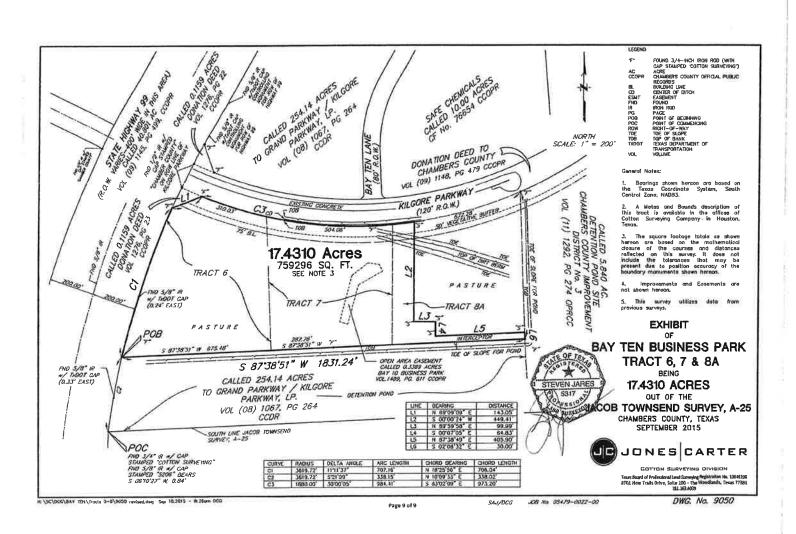
Registration No. 10046100

Acting By/Through Steven Jares Registered Professional Land Surveyor

No. 5317

SJares@jonescarter.com





2016 BK VOL PG 116405 OR 1690 329

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Heather H. Hawthorne, COUNTY CLERK

CLERK NUMBER 116405 PAGES 10

AMOUNT:

58.00

RECEIPT NUMBER 16008686

BY CGOBERT

STATE OF TEXAS Chambers County COUNTY, TEX AS STAMPED HEREON BY ME. OCT 11 2016

Heather H.

Recorded

7 Scott Drewry handed back