

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 14, 2008

Mr. Gary Wyatt
Senior Vice President of Real Estate, Engineering and Construction
Lowe's Home Centers, Inc.
1605 Curtis Bridge Road
Wilkesboro, NC 28697

RE: Municipal Setting Designation (MSD) Certificate for Lowe's Home Centers, Inc.,
6011 Lemmon Avenue, Dallas, TX; MSD No. 045

Dear Mr. Wyatt:

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 512/239-5872 or via e-mail (mfrew@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G.
Environmental Cleanup Section II
Remediation Division

Enclosure

MF/sr

Texas Commission on Environmental Quality



Municipal Setting Designation

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 45, in the City of Dallas, 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 10 day of April, 2008

A handwritten signature in black ink, appearing to read "Glenn Shankle", written over a horizontal line.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

'A'

Land Description
13.380 Acres
Miles Bennett Survey A-52
City of Dallas
Dallas County, Texas

ALL THAT CERTAIN lot, tract, or parcel of land situated within the Miles Bennett Survey Abstract 52 and being all of a called 10.362 acre tract described in a deed to Lowe's Home Centers, Inc. recorded in File No. 2006001 17230 in the Deed records of Dallas County, Texas, same being all of Lot 3 Block 5716 as shown on a Final Plat of Coca Cola Bottling Works Addition, recorded in Volume 80087, Page 1117 in the Map Records of Dallas County, Texas and being all of a called 0.356 acre tract described in a deed to Lowe's Home Centers, Inc. recorded in File No. 200600117231 in said Deed Records, and being a portion of Atwell Street & Lemmon Avenue existing right of ways, and being more completely described as follows:

BEGINNING at a 5/8 inch iron rod found for the south corner of said Lot 3 and being in a curve to the left;

THENCE along the south line of said Lot 3 and along the south line of said 0.356 acre tract and said curve to the left, having a Delta of 31 deg. 48 min. 13 sec., a Radius of 690.00 feet, a Chord which bears North 87 deg. 29 min. 47 sec. West a distance of 378.10 feet, and an arc distance of 383.00 feet to a 1/2 inch iron rod set for the southeast corner of said 0.356 acre tract, same being the east corner of a called 2.287 acre tract described in a deed to Car Park, L.P. recorded in Volume 98189, Page 6132 in said Deed Records;

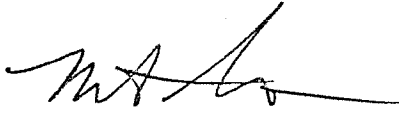
THENCE North 50 deg. 07 min. 07 sec. West along the southwest line of said 0.356 acre tract and the northeast line of said 2.287 acre tract, passing a 1/2 inch pipe found for the west corner of said 0.356 acre tract, same being the north corner of said 2.287 acre tract at 368.60 feet, continuing across said Atwell Street for a total distance of 418.60 feet to a point for corner in the northwest right of way line of said Atwell Street (50' right of way);

THENCE North 40 deg. 06 min. 53 sec. East along said northwest right of way line, a distance of 952.63 feet to a point for corner at the intersection with the northeast right of way line of Lemmon Avenue (100' right of way);

THENCE South 36 deg. 45 min. 00 sec. East along said northeast right of way, a distance of 565.62 feet to a point for corner and being the beginning of a curve to the left;

THENCE continuing along said northeast right of way line and said curve to the left having a Delta of 05 deg. 18 min. 26 sec., a Radius of 1859.86 feet, a Chord which bears South 39 deg. 24 min. 13 sec. East a distance of 172.21 feet, and an Arc distance of 172.27 feet to a point for corner in same;

THENCE South 40 deg. 19 min. 27 sec. West crossing the existing right of way of Lemmon Avenue, passing a 1/2 inch iron rod found for the east corner of said Lot 3, continuing along the southeast line of said Lot 3 a total distance of 560.31 feet to the **PLACE OF BEGINNING** containing 13.380 acres (582,845 square feet) of land.



11/10/06

Monty Nixon

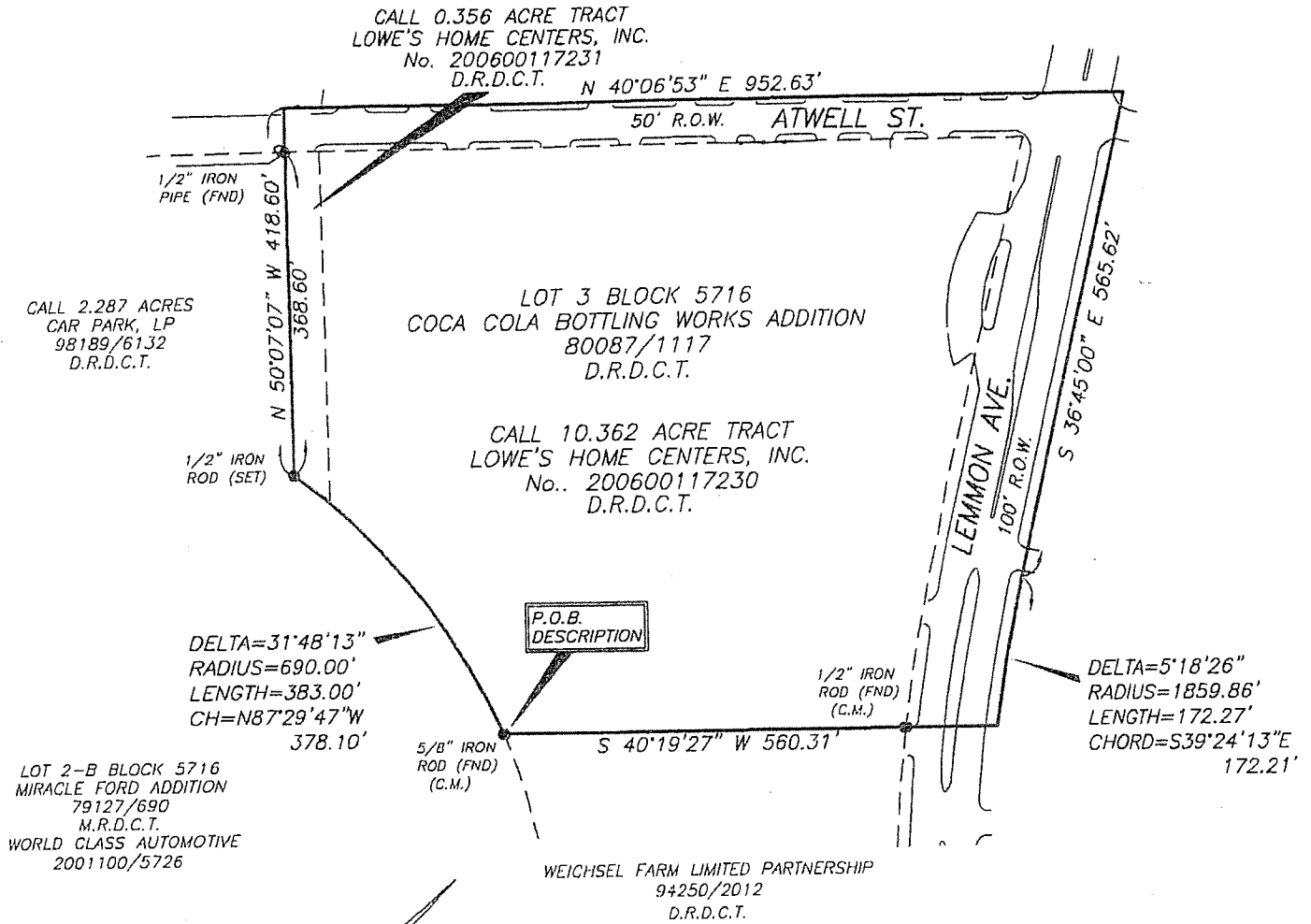
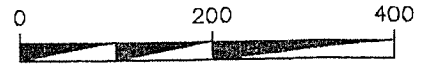
Registered Professional Land Surveyor No. 5542



MILES BENNETT SURVEY A-52

BEARING BASIS: CALL 10.362 AC. TRACT 200600117230 D.R.D.C.T.

GRAPHIC SCALE



[Signature] 11/10/06 DATE
 MONTY NIXON
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5542
 SUMMIT SURVEYING, LTD.
 2040 DEERBROOK DR. TYLER, TX.
 (90J) 561-9544
 JOB NO. 04-058



MSD EXHIBIT
 13.380 ACRES
 CITY OF DALLAS BLOCK 5716
 MILES BENNETT SURVEY A-52
 CITY OF DALLAS
 DALLAS COUNTY, TEXAS

SEE DESCRIPTION WITH SAME DATE

'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
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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. PST 0001178 / LPST 091525 / VCP No. 1797 / IHW No. 31570 / RCRA No. TXD085131746		
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? 7 / 6 / 04	<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.

Applicant Signature: Gary E. Wyatt Date: 6-28-07
Gary E. Wyatt
Senior Vice President

Before me Teresa Lococo the undersigned authority, on this day personally appeared
Gary E. Wyatt and signed this Municipal Setting Designation Application.
Name of Notary
Name of Applicant

Sworn, subscribed and signed before me in the County of Wilkes, State of NC, on the 28
day of June, this month of _____, 2007

TERESA F. LOCOCO
2
Notary Public
North Carolina - Wilkes County
My Commission Expires 4-7-10