

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

December 11, 2007

Mr. Brendan Lowrey
Thompson & Knight LLP
1700 Pacific Avenue, Suite 3300
Dallas, Texas 75201

Re: Certification of Municipal Setting Designation (MSD) Application for Pepper Square Shopping Center, 14902-14856 Preston Road and 6160 Beltline Road, Dallas, TX; MSD No. 55

Dear Mr. Lowrey:

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

MF/jhm

Enclosure

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 55, 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 7 day of December, 2007.

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

EXHIBIT "A" M.S.D. SURVEY

Being a tract of land situated in the James Byrd Survey, Abstract No. 84, City of Dallas, Dallas County, Texas, and being all of a tract of land conveyed to Prestonwood Market Square, Ltd. by Deed recorded in Volume 94109, Page 4189, Deed Records, Dallas County, Texas, and being all of a tract of land conveyed to HSM Pepper Square Partners, Ltd. by Deed recorded in Volume 2000004, Page 7325, Deed Records, Dallas County, Texas, and being all of Lot 6, Block B/8189 of Preston North National Bank Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 88049, Page 626 of the map records of Dallas County, Texas, and all of Lot 5C, Block B/8189 of Compass Bank Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 92026, Page 3422 of the map records of Dallas County, Texas, and being all of Lot 6, Block B/8189 of Preston North National Bank, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 85049, Page 626 of the map records of Dallas County, Texas, and being a portion of Belt Line Road (100 foot right of way), Preston Road (100 foot right of way) and Alexis Drive (100 foot right of way), and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8 inch iron rod found for corner, said corner being the Northeast corner of Lot 1, Block B/8189 of Preston - Bellline Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 70110, Page 1 of the map records of Dallas County, Texas and being the most Northerly corner of said Prestonwood Market Square Ltd. tract, and lying in the Southwest line of said Belt Line Road;

THENCE North 11 degrees 37 minutes 41 seconds East, crossing said Belt Line Road, a distance of 100.00 feet to a point for corner, said corner lying in the Northeast line of 15150 Preston Road Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 84163, Page 4673 of the map records of Dallas County, Texas, said corner being in a non tangent curve to the Right, having a radius of 915.00 feet, a delta of 42 degrees 53 minutes 07 seconds and a chord bearing and distance that bears South 56 degrees 55 minutes 45 seconds East, 668.99 feet;

THENCE along the Northeast line of said Belt Line Road and along said curve to the Right, an arc length of 684.86 feet to a point for corner, said corner lying in the Northeast line of Preston Bend Village II, Condominiums, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 2005042, Page 10752 of the map records of Dallas County, Texas;

THENCE South 35 degrees 29 minutes 12 seconds East along the Northeast line of said Belt Line Road, a distance of 876.12 feet to a point for corner, said corner lying in the East line of BellLine Apartments Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 78049, Page 763 of the map records of Dallas County, Texas, said corner being in a non tangent curve to the Left, having a radius of 950.00 feet, a delta of 12 degrees 12 minutes 44 seconds and a chord bearing and distance that bears South 41 degrees 35 minutes 34 seconds East, 202.10 feet;

THENCE along the Northeast line of said Belt Line Road and along said curve to the Left, an arc length of 202.48 feet to a point for corner;

THENCE South 42 degrees 18 minutes 08 seconds West, crossing said Belt Line Road, a distance of 100.00 feet to a 3/8 inch iron rod found for corner, said corner being the North corner of Lot 7, Block B/8189 of Alexis City Garage Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 96054, Page 1829 of the map records of Dallas County, Texas;

THENCE North 89 degrees 58 minutes 10 seconds West along the North line of said Lot 7, a distance of 118.19 feet to a 1/2 inch iron rod found for corner, said corner being the Northwest corner of said Lot 7;

THENCE South 00 degrees 01 minute 50 seconds West along the West line of said Lot 7 and crossing said Alexis Drive, a distance of 273.02 feet to a point for corner, said corner lying in the South line of said Alexis Drive;

THENCE North 89 degrees 58 minutes 10 seconds West along the South line of said Alexis Drive, a distance of 802.17 feet to a point for corner;

THENCE North 00 degrees 01 minutes 50 seconds East, crossing said Alexis Drive, a distance of 289.06 feet to a 1/2 inch iron rod found for corner, said corner being the Northeast corner of Lot 5B, Block B/8189 of Compass Bank Addition, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 92026, Page 3422 of the map records of Dallas County, Texas;

THENCE South 89 degrees 47 minutes 55 seconds West along the North line of said Lot 5B and crossing said Belt Line Road, a distance of 359.19 feet to a point for corner, said corner lying in the East line of said Rostland Subdivision No.3, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 93079, Page 168 of the map records of Dallas County, Texas, said corner lying in the West line of said Preston Road;

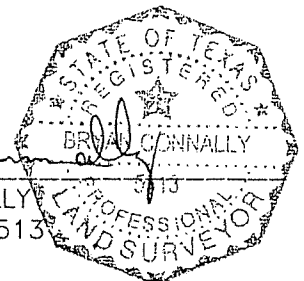
THENCE North 00 degrees 12 minutes 10 seconds West along the West line of said Preston Road, a distance of 108.25 feet to a point for corner, said corner being the Southeast corner of Lot 4, Block A/8174 of Rostland Subdivision Unit 2, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 85063, Page 2523 of the map records of Dallas County, Texas, said corner being in a non tangent curve to the Left, having a radius of 950.12 feet, a delta of 13 degrees 28 minutes 46 seconds and a chord bearing and distance that bears North 06 degrees 56 minutes 33 seconds West, 947.93 feet;

THENCE along the West line of said Preston Road and along said curve to the Left, an arc length of 950.12 feet to a point for corner;

THENCE South 83 degrees 24 minutes 41 seconds East, crossing said Preston Road, a distance of 286.43 feet to an "X" found in concrete for corner;

THENCE North 14 degrees 53 minutes 36 seconds West, a distance of 180.01 feet to the POINT OF BEGINNING and containing 1,368,744.30 square feet or 31.4220 acres of land.

Bryan Connally
BRYAN CONNALLY
R.P.L.S. NO. 5513



DC&A

DOUG CONNALLY & ASSOCIATES, INC.

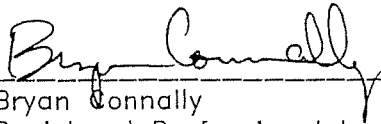
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11545 Pagemill Road · Suite 200 · Dallas, Texas 75243
P 214.349.9485 · F 214.349.2216
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SHEET 2 OF 3
JOB NO. 0602749-1
DRAWN BY: R.G.

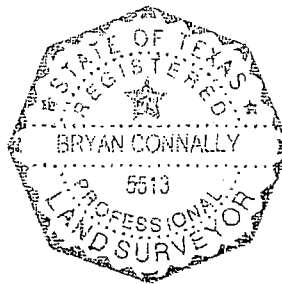
EXHIBIT "A"
M.S.D. SURVEY

The undersigned Registered Professional Land Surveyor (Bryan Connally) hereby certifies to Thompson & Knight LLP, (a) this survey and the property description set forth hereon were prepared from an actual on-the-ground survey; (b) such survey was conducted by the Surveyor, or under his direction; (c) all monuments shown hereon actually existed on the date of the survey, and the location, size and type of material thereof are correctly shown; Use of this survey by any other parties and/or for other purposes shall be at User's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. The plat hereon is a correct and accurate representation of the property lines and dimensions are as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries the distances indicated and there are no visible and apparent encroachments or protrusions on the ground.

Executed this 17th day of April, 2006



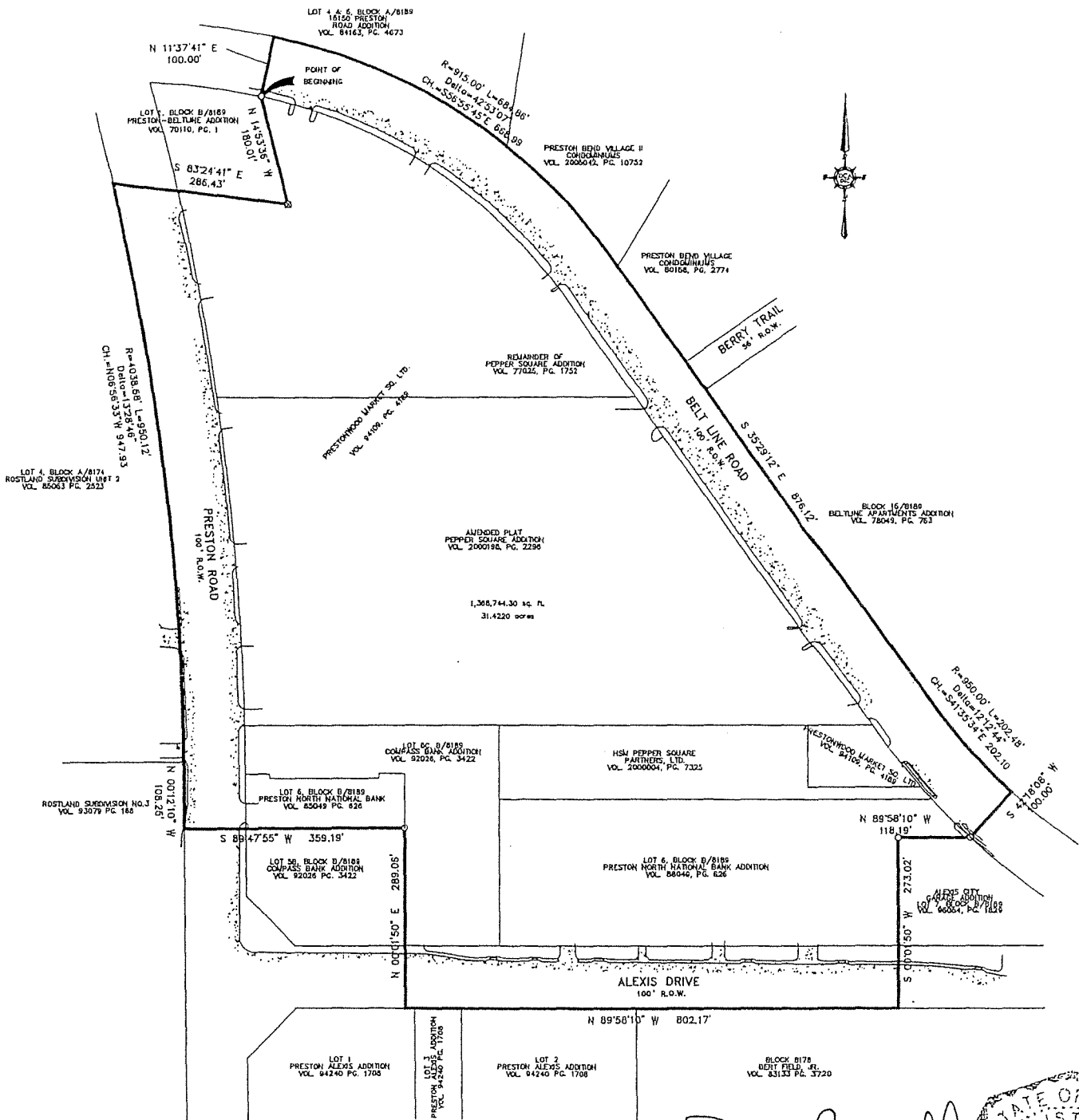
Bryan Connally
Registered Professional Land Surveyor No. 5513



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SHEET 3 OF 3
JOB NO. 0602749-1
DRAWN BY: R.G.

EXHIBIT "A" M.S.D. SURVEY

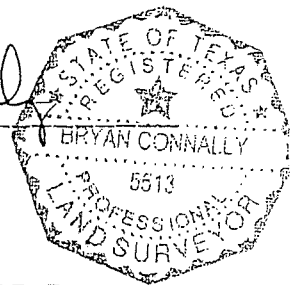


GENERAL NOTES:

1) BEARINGS ARE BASED ON THE COMPASS BANK ADDITION, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 92026, PAGE 3422 OF THE MAP RECORDS OF DALLAS COUNTY, TEXAS.

Bryan Connally

BRYAN CONNALLY
R.P.L.S. NO. 5513



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SHEET 1 OF 3
JOB NO. 0602749-2
DRAWN BY: R.G.

'B'

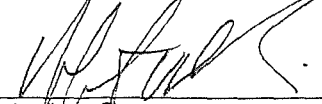
c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³	<input checked="" type="radio"/> NA ⁴
³ Do not submit application.			
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 Inactive numbers below. Active Numbers: VCP No. 670; LPST No. 94158; Stormwater Permit No. TXRNES708; Permit No. DB2890M		
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/ 30 /97	<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):

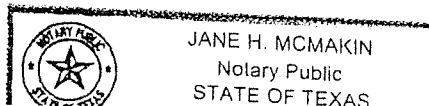
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed 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 Manager/Treasurer of Genl Ptr.

8/10/07
 Date

Before me Jane McMAKIN the undersigned authority, on this day personally appeared HSM Pepper Square Partners, Ltd. Prestonwood Market Square, Ltd. and represented by Robert DuBois, Name of Notary of Henry S. Miller Holdings Corp and signed this Municipal Setting Designation Application.
 Name of Applicant

Sworn, subscribed and signed before me in the County of Dallas, State of TX, on the 10th day of August, this month of _____, 2007.





Municipal Setting Designation Application Form

TCEQ Office Use Only: Application No: <i>055</i> Date Received: <i>9/27/07</i>	Date Add. Info Req. / / Date Add. Info Rec'd / / Date Certified: / / Date Denied: / /
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Reset Form
Municipal Setting Designation Eligibility Criteria:

Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ¹
Is the proposed municipal setting designation (MSD) within the extraterritorial jurisdiction of a municipality authorized by statute?	<input type="radio"/> Yes	<input checked="" type="radio"/> No ¹
Municipality name: <i>City of Dallas</i>		
Is there a public drinking water supply system that satisfies the requirements of THSC Chapter 341 and supplies or is capable of supplying drinking water to: a) the proposed MSD property, and b) each property within 0.5 miles beyond the boundary of the proposed MSD?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ¹
¹ If No, the eligibility criteria are not met. Do not submit an application.		

Applicant and Fee Payment Information:

Contact Person: <input checked="" type="radio"/> Mr. <input type="radio"/> Ms. <i>Robert DuBois</i>		
Title: <i>c/o Henry S. Miller Holdings Corp.</i>		
Company: <i>Prestonwood Market Square, Ltd. and HSM Pepper Square Partners, Ltd. c/o Henry S. Miller Holdings Corp.</i>		
Mailing Address: <i>1100 Providence Towers West, 5001 Spring Valley Road</i>		
City: <i>Dallas</i>	State: <i>Texas</i>	Zip: <i>75244</i>
Telephone: <i>972 /419-4007</i>	Telefax: <i>972/419-8661</i>	
E-mail Address: [REDACTED]		
Is the required \$1,000 application being submitted to TCEQ in advance or at the same time the MSD application is being submitted to TCEQ?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ²
² Do not submit application.		

MSD Property Address:

Street Address: <i>14902-14856 Preston Road and 6160 Beltline Road</i>	
City: <i>Dallas</i>	Zip: <i>75254</i>
County: <i>Dallas</i>	Acres: <i>31.422</i>
If multiple properties provide an attachment to the application providing the above information for each property.	

Notice Information:

<u>On</u> or <u>before</u> the date of submission of the application to TCEQ, was notice provided to:		
a) each municipality:		
1) where the proposed MSD is located?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ⁴
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
3) 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
b) each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴