

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*

October 16, 2008

Ms. Erika Erikson  
Guida, Slavich & Flores  
750 N. St. Paul Street, Suite 200  
Dallas, TX 75201

RE: Municipal Setting Designation (MSD) Certificate for Bebbentuckers, LLC, 11741  
Preston Road, Dallas, TX; MSD No. 78

Dear Ms. Erikson:

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](mailto: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/sr

Enclosure

cc: Mark Weegar, VCP Project Manager, Remediation Division, MC-127

# Texas Commission on Environmental Quality



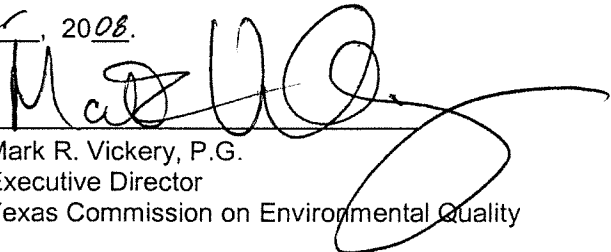
## Municipal Setting Designation

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

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 78, 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<sup>th</sup> day of October, 2008.

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

'A'

FIELD NOTE DESCRIPTION  
MSD AREA

STATE OF TEXAS  
COUNTY OF DALLAS

BEING a tract of land situated in the C.G. NEWTON SURVEY, Abstract No. 1090 and being a portion of the City of Dallas Block No. 7/6383 and being a portion of FOREST LANE ( 120' Right-of-Way ) and being all of LOT 9, BLOCK 7/6383 of the BIBBENTUCKER'S ADDITION an addition to the City of Dallas as recorded in Volume 99212, Page 15 of the Deed Records of Dallas County, Texas ( DRDCT ) and being more particularly described as follows;

BEGINNING at the most southeasterly corner of said LOT 9, BLOCK 7/6383, said point being in the westerly Right-of-Way line of PRESTON ROAD ( a variable width Right-of-Way );

THENCE departing the westerly line of said PRESTON ROAD North 89 deg 52 min 01 sec West a distance of 109.19 feet to a Pk nail found for corner;

THENCE North 44 deg 50 min 53 sec West a distance of 25.00 feet to a "X" Cut found for corner;

THENCE North 00 deg 04 min 35 sec East passing through a Pk Nail found for the most northwesterly corner of said LOT 9, BLOCK 7/6383 at a distance of 123.39 feet and continuing across said FOREST LANE for a total distance of 242.59 feet to a point for corner in the northerly Right-of-Way line of said FOREST LANE, said point being in the southerly line of a tract of land conveyed to H. Croig Kinney 75% as recorded in Volume 90053, Page 2422 & William David Willingham 25% as recorded in Volume 91004, Page 4737 ( DRDCT );

THENCE along the northerly Right-of-Way line of said FOREST LANE South 89 deg 47 min 24 sec East passing through the most southwesterly corner of a tract of land conveyed to Fonberg Holdings, LTD as recorded in Volume 98252, Page 00285 ( DRDCT ) at a distance of 40.56 feet continuing in all a total distance of 80.69 feet to the most southeasterly corner of said Fonberg Holdings, LTD tract;

THENCE continuing along the northerly Right-of-Way line of said FOREST LANE North 47 deg 57 min 08 sec East a distance of 103.43 feet to a point for corner;

THENCE departing the northerly line of said FOREST LANE and going across said FOREST LANE South 05 deg 22 min 07 sec West a distance of 260.12 feet to a point for corner in the westerly Right-of-Way line of said PRESTON ROAD, said point being the beginning of a non tangent curve to the left having a radius of 5780.00 feet and having a chord bearing of South 05 deg 23 min 35 sec West and a chord length of 70.89 feet;

THENCE: along the westerly Right-of-Way line of said PRESTON ROAD as follows;

Continuing along said curve to the left through a central angle of 00 deg 42 min 10 sec and an arc length of 70.89 feet to the POINT OF BEGINNING;

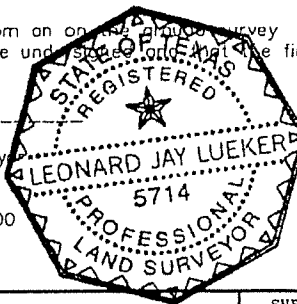
CONTAINING within these metes and bounds 0.882 acres or 38,425 square feet of land more or less. Bearings contained within this field note description are based upon an on the ground survey performed in the field on the 11th day of April, 2007 utilizing GPS measurements.

SURVEYORS CERTIFICATE

The undersigned hereby certifies the above field note description was prepared from an on the ground survey performed in the field on the 11th day of April, 2007 under the supervision of the undersigned and that the field notes description forms a mathematical figure of 1:15,000

Date: 9/27/07

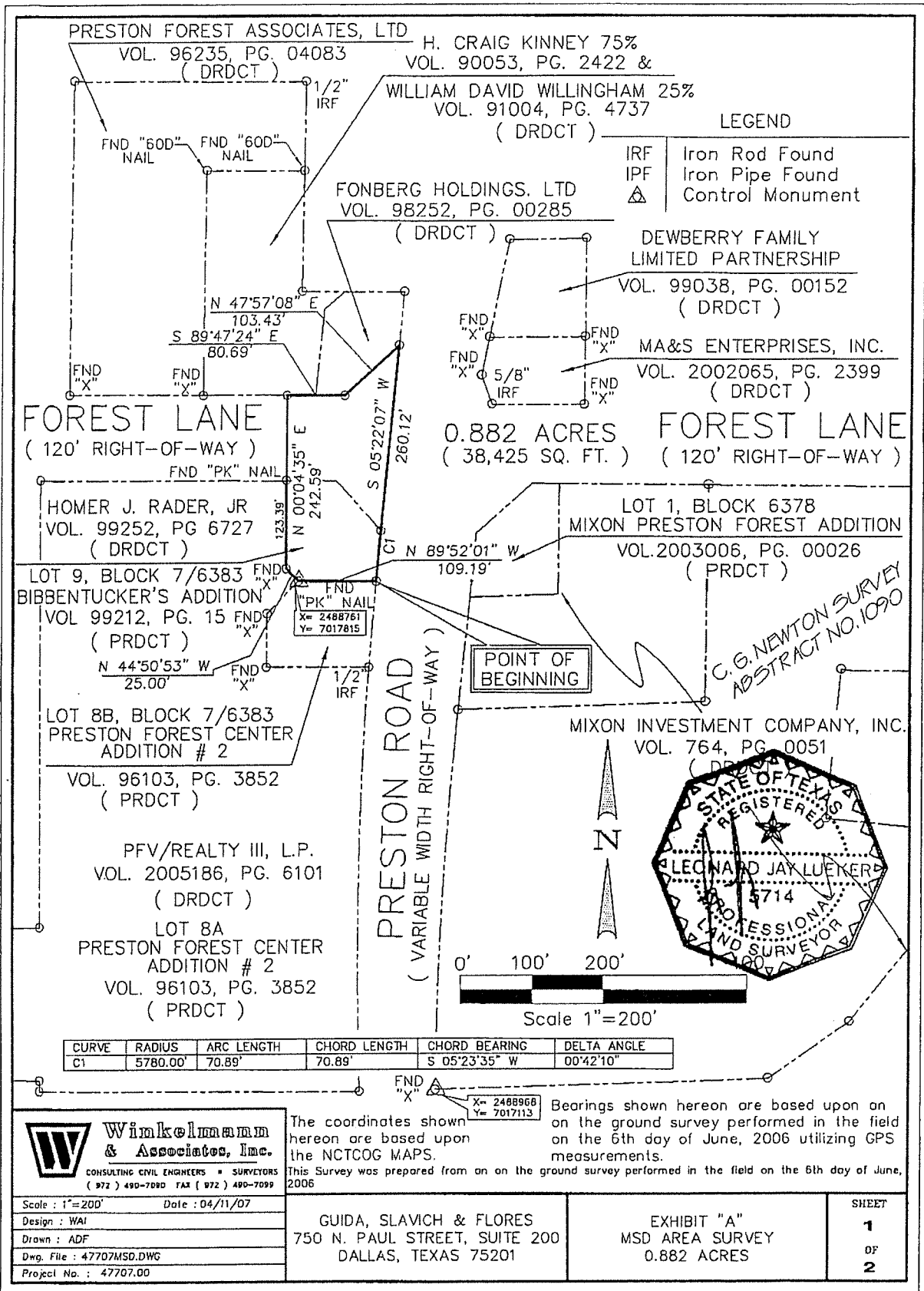
*[Signature]*  
Leonard J. Lueker  
Registered Professional Land Surveyor  
Texas Registration No. 5714  
Winkelmann & Associates, Inc.  
6750 Millcrest Plaza Drive, Suite 100  
Dallas, Texas 75230  
( 972 ) 490-7090



**Winkelmann & Associates, Inc.**  
CONSULTING CIVIL ENGINEERS • SURVEYORS  
( 972 ) 490-7090 FAX ( 972 ) 490-7099

Scale : 1"=200'	Date : 04/11/07
Design : WAI	
Drawn : ADF	
Dwg. File : 47707MSD.DWG	
Project No. : 47707.00	

GUIDA, SLAVICH & FLORES 750 N. PAUL STREET, SUITE 200 DALLAS, TEXAS 75201	EXHIBIT "A" MSD AREA SURVEY 0.882 ACRES	SHEET <b>1</b> OF <b>2</b>
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PRESTON FOREST ASSOCIATES, LTD  
 VOL. 96235, PG. 04083 (DRDCT)  
 H. CRAIG KINNEY 75%  
 VOL. 90053, PG. 2422 & (DRDCT)

WILLIAM DAVID WILLINGHAM 25%  
 VOL. 91004, PG. 4737 (DRDCT)  
 FOND "60D" NAIL  
 FOND "60D" NAIL  
 1/2" IRF

LEGEND

IRF	Iron Rod Found
IPF	Iron Pipe Found
△	Control Monument

FONBERG HOLDINGS, LTD  
 VOL. 98252, PG. 00285 (DRDCT)

DEWBERRY FAMILY LIMITED PARTNERSHIP  
 VOL. 99038, PG. 00152 (DRDCT)

MA&S ENTERPRISES, INC.  
 VOL. 2002065, PG. 2399 (DRDCT)

FOREST LANE (120' RIGHT-OF-WAY)  
 0.882 ACRES FOREST LANE (38,425 SQ. FT.) (120' RIGHT-OF-WAY)

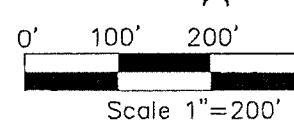
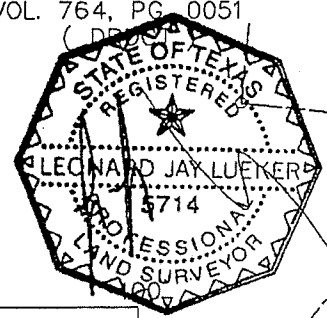
HOMER J. RADER, JR  
 VOL. 99252, PG 6727 (DRDCT)  
 LOT 1, BLOCK 6378  
 MIXON PRESTON FOREST ADDITION  
 VOL. 2003006, PG. 00026 (PRDCT)

LOT 9, BLOCK 7/6383  
 BIBBENTUCKER'S ADDITION  
 VOL. 99212, PG. 15 (PRDCT)  
 LOT 8B, BLOCK 7/6383  
 PRESTON FOREST CENTER ADDITION # 2  
 VOL. 96103, PG. 3852 (PRDCT)

PFV/REALTY III, L.P.  
 VOL. 2005186, PG. 6101 (DRDCT)  
 LOT 8A  
 PRESTON FOREST CENTER ADDITION # 2  
 VOL. 96103, PG. 3852 (PRDCT)

POINT OF BEGINNING  
 C.G. NEWTON SURVEY ABSTRACT NO. 1090

MIXON INVESTMENT COMPANY, INC.  
 VOL. 764, PG. 0051 (DRDCT)



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	5780.00'	70.89'	70.89'	S 05°23'35" W	00°42'10"

**Winkelmann & Associates, Inc.**  
 CONSULTING CIVIL ENGINEERS • SURVEYORS  
 (972) 490-7080 FAX (972) 490-7099

The coordinates shown hereon are based upon the NCTCOG MAPS. This Survey was prepared from an on the ground survey performed in the field on the 6th day of June, 2006

Bearings shown hereon are based upon on the ground survey performed in the field on the 6th day of June, 2006 utilizing GPS measurements.

Scale : 1"=200' Date : 04/11/07  
 Design : WAI  
 Drawn : ADF  
 Dwg. File : 47707MSD.DWG  
 Project No. : 47707.00

GUIDA, SLAVICH & FLORES  
 750 N. PAUL STREET, SUITE 200  
 DALLAS, TEXAS 75201

EXHIBIT "A"  
 MSD AREA SURVEY  
 0.882 ACRES

SHEET  
 1  
 OF  
 2

'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 <sup>3</sup>	<input checked="" type="radio"/> 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.

~~VGP No. 1999 / VCP # 2055~~

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 checked="" type="radio"/> Yes	<input type="radio"/> 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 checked="" type="radio"/> Yes, when? 05/ 01 / 07	<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 <sup>6</sup>	<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 <sup>6</sup>	<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 <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 checked="" type="radio"/> Yes	<input type="radio"/> 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.

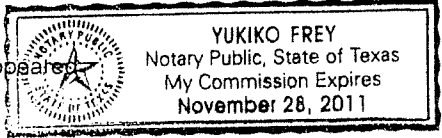
I affirmatively state that (place an X in all applicable blanks):

- 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.

John M. Calma Jr.  
Applicant Signature

July 22, 2008  
Date

Before me Yukiko Frey the undersigned authority, on this day personally appeared \_\_\_\_\_  
Name of Notary Name of Applicant  
and signed this Municipal Setting Designation Application.



Sworn, subscribed and signed before me in the County of DALLAS, State of TX, on the 22nd day of July, this month of July, 2008.

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



**COPY**

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 16, 2008

Ms. Debra Watkins, City Secretary  
Dallas City Hall  
1500 Marilla, Room 5D South  
Dallas, TX 75201

Re: Municipal Setting Designation Certification (MSD) for Bebbentucker, LLC, 11741  
Preston Road, Dallas, TX; MSD No. 78

Dear Ms. Watkins:

As required by TEX HEALTH & SAFETY CODE §361.807(a)(2), enclosed is a copy of the MSD dated October 7, 2008. The City of Dallas passed an ordinance (Ordinance No. 27245) in support of this MSD application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of the MSD Certificate.

If you have any questions, please contact me at 512/239-5872.

Sincerely,

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

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

MF/sr

Enclosure

# Texas Commission on Environmental Quality



## Municipal Setting Designation

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EXECUTED this 7<sup>th</sup> day of October, 2008.

A handwritten signature in black ink, appearing to read "Mark R. Vickery", written over a horizontal line.

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

'A'

FIELD NOTE DESCRIPTION  
MSD AREA

STATE OF TEXAS  
COUNTY OF DALLAS

BEING a tract of land situated in the C.G. NEWTON SURVEY, Abstract No. 1090 and being a portion of the City of Dallas Block No. 7/6383 and being a portion of FOREST LANE ( 120' Right-of-Way ) and being all of LOT 9, BLOCK 7/6383 of the BIBBENTUCKER'S ADDITION an addition to the City of Dallas as recorded in Volume 99212, Page 15 of the Deed Records of Dallas County, Texas ( DRDCT ) and being more particularly described as follows;

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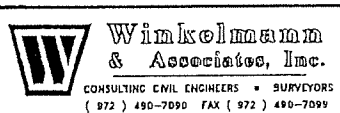
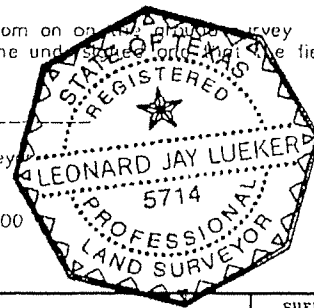
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SURVEYORS CERTIFICATE

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Date: 9/27/07

Leonard J. Lueker  
Registered Professional Land Surveyor  
Texas Registration No. 5714  
Winkelmann & Associates, Inc.  
6750 Millcrest Plaza Drive, Suite 100  
Dallas, Texas 75230  
( 972 ) 490-7090



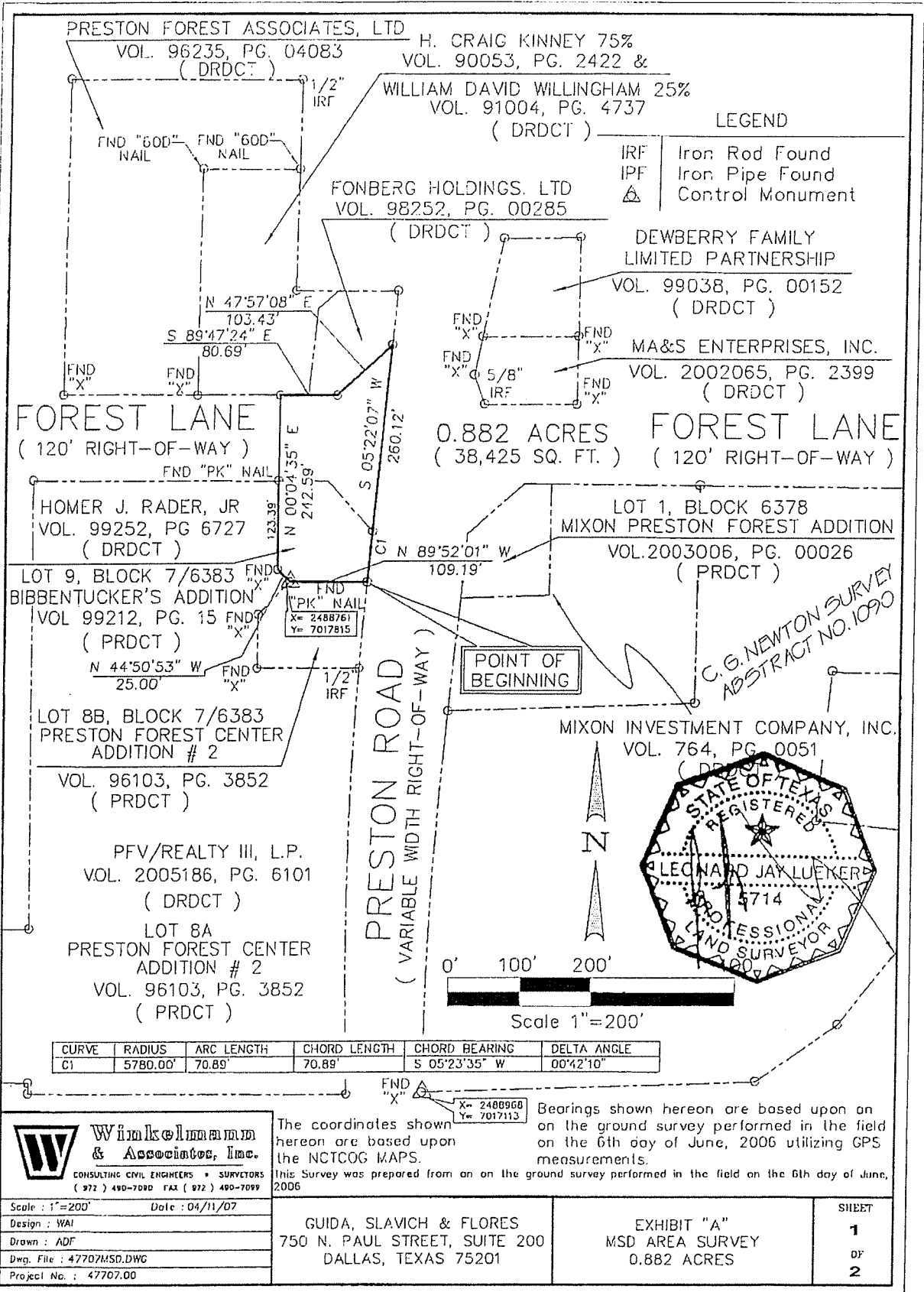
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GUIDA, SLAVICH & FLORES  
750 N. PAUL STREET, SUITE 200  
DALLAS, TEXAS 75201

EXHIBIT "A"  
MSD AREA SURVEY  
0.882 ACRES

SHEET  
1  
OF  
2





PRESTON FOREST ASSOCIATES, LTD  
VOL. 96235, PG. 04083  
( DRDCT )

H. CRAIG KINNEY 75%  
VOL. 90053, PG. 2422 &  
WILLIAM DAVID WILLINGHAM 25%  
VOL. 91004, PG. 4737  
( DRDCT )

LEGEND  
IRF Iron Rod Found  
IPF Iron Pipe Found  
△ Control Monument

FONBERG HOLDINGS, LTD  
VOL. 98252, PG. 00285  
( DRDCT )

DEWBERRY FAMILY  
LIMITED PARTNERSHIP  
VOL. 99038, PG. 00152  
( DRDCT )

MA&S ENTERPRISES, INC.  
VOL. 2002065, PG. 2399  
( DRDCT )

FOREST LANE  
( 120' RIGHT-OF-WAY )

0.882 ACRES FOREST LANE  
( 38,425 SQ. FT. ) ( 120' RIGHT-OF-WAY )

HOMER J. RADER, JR  
VOL. 99252, PG 6727  
( DRDCT )

LOT 1, BLOCK 6378  
MIXON PRESTON FOREST ADDITION  
VOL. 2003006, PG. 00026  
( PRDCT )

LOT 9, BLOCK 7/6383  
BIBBENTUCKER'S ADDITION  
VOL 99212, PG. 15  
( PRDCT )

LOT 8B, BLOCK 7/6383  
PRESTON FOREST CENTER  
ADDITION # 2  
VOL. 96103, PG. 3852  
( PRDCT )

PFV/REALTY III, L.P.  
VOL. 2005186, PG. 6101  
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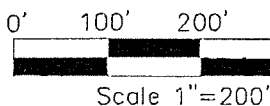
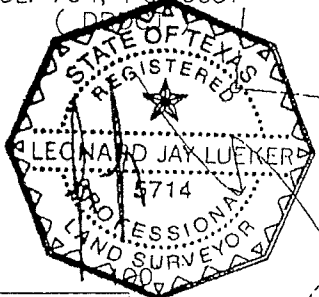
LOT 8A  
PRESTON FOREST CENTER  
ADDITION # 2  
VOL. 96103, PG. 3852  
( PRDCT )

PRESTON ROAD  
( VARIABLE WIDTH RIGHT-OF-WAY )

POINT OF BEGINNING

C.G. NEWTON SURVEY  
ABSTRACT NO. 1090

MIXON INVESTMENT COMPANY, INC.  
VOL. 764, PG. 0051  
( DRDCT )



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	5780.00'	70.89'	70.89'	S 05'23'35" W	00'42'10"

**Winkelmann & Associates, Inc.**  
CONSULTING CIVIL ENGINEERS • SURVEYORS  
( 972 ) 490-7090 FAX ( 972 ) 490-7099

The coordinates shown hereon are based upon the NCTCOG MAPS.

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This Survey was prepared from an on the ground survey performed in the field on the 6th day of June, 2006

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Dwg. File : 47707MSD.DWG	
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GUIDA, SLAVICH & FLORES  
750 N. PAUL STREET, SUITE 200  
DALLAS, TEXAS 75201

EXHIBIT "A"  
MSD AREA SURVEY  
0.882 ACRES

SHEET  
**1**  
OF  
**2**

'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 <sup>3</sup>	<input checked="" type="radio"/> 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.

~~VGP-No: 1999~~ / ~~VCP #: 2055~~

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 checked="" type="radio"/> Yes	<input type="radio"/> 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 checked="" type="radio"/> Yes, when? 05/ 01 / 07	<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 <sup>6</sup>	<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 <sup>6</sup>	<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 <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 checked="" type="radio"/> Yes	<input type="radio"/> 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.

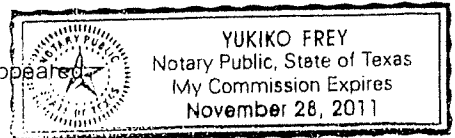
I affirmatively state that (place an X in all applicable blanks):

- 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.

John M. Calum Jr.  
Applicant Signature

July 22, 2008  
Date

Before me Yukiko Frey the undersigned authority, on this day personally appeared \_\_\_\_\_ and signed this Municipal Setting Designation Application.  
Name of Notary  
Name of Applicant



Sworn, subscribed and signed before me in the County of DALLAS, State of TX, on the 22nd day of July, this month of July, 2008.