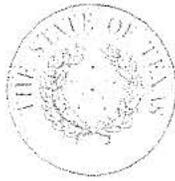


Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 3, 2014

Mr. Damon Waresback, P.G.  
Authorized Representative for Atwood Distributing LP  
c/o SWS Environmental Services  
9204 Hwy 287 NW  
Fort Worth, TX 76131

RE: Municipal Setting Designation (MSD) Certificate for Atwood Distributing LP,  
1811 Highway 259, Kilgore, Texas; MSD No. 252

Dear Mr. Waresback:

Enclosed is the Municipal Setting Designation Certification for the Atwood Distributing LP Site located at 1811 Highway 259 in Kilgore, Texas. Atwood Distributing LP 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.

Although our research files indicate the above referenced property is currently owned Atwood Distributing LP, the resolution of environmental assessment and response actions associated with the site in the TCEQ Corrective Action (CA) Program by the prior owner associated with the site (i.e., Wal-Mart) remain outstanding. Based on our review, the TCEQ has not received any TRRP-related reports documenting proper closure/remediation of the site. TCEQ letters dated January 8, 2014 and September 9, 2008, previously instructed Wal-Mart to remediate commingled waste oil and crude oil contamination remaining on the property in accordance with the Texas Risk Reduction Program (TRRP) rule of 30 Texas Administrative Code (TAC) 350.

Please be aware that it is the continuing obligation of persons associated with a site to ensure that municipal hazardous waste and industrial solid waste are managed in a manner which does not cause the discharge or imminent threat of discharge of waste into or adjacent to waters in the state, a nuisance, or the endangerment of the public health and welfare as required by 30 Texas Administrative Code (TAC) §335.4.

Questions concerning this letter should be directed to me at (512) 239-6542 or via email mail ([Eleanor.Wehner@tceq.texas.gov](mailto:Eleanor.Wehner@tceq.texas.gov)). When responding by mail, please submit an original and one copy of all correspondence and reports to the TCEQ Remediation

Mr. Damon Waresback, P.G.

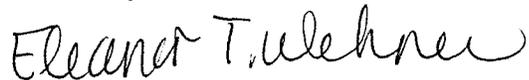
Page 2

April 3, 2014

TCEQ SWR No. 74087

Division at Mail Code MC-127 with an additional copy submitted to the local TCEQ Region Office.

Sincerely,



Eleanor T. Wehner, P.G.

Project Manager

VCP-CA Section

Remediation Division

Texas Commission on Environmental Quality

ETW/jdm

Enclosure: MSD Certificate No. 252

cc: Ms. Sarah Walls, Partner, Cantey Hanger LLP, Cantey Hanger Plaza, 600 West 6<sup>th</sup> Street, Suite 300, Fort Worth, Texas 76102-3685

Mr. Gary Vernon, EH&S Compliance Wal-Mart Stores Inc., 702 Southwest 8<sup>th</sup> Street, Bentonville, AR 72716

Ms. Minda L. Sarmiento, P.E., CB&I, 805 Las Cimas Parkway, Las Cimas III, Suite 300, Austin, TX 78746

Mr. Michael Brashear, Waste Program Manager, TCEQ Region 5 Office, Tyler

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, Richard A. Hyde, P.E., Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation (MSD) for MSD No. 252, in the City of Kilgore, 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 26th day of March, 2014

A handwritten signature in black ink, appearing to read "Richard A. Hyde".

Richard A. Hyde, P.E.  
Executive Director  
Texas Commission on Environmental Quality

EXHIBIT A

A 7.00 acre tract of land, more or less, located in the Mary Van Winkle Survey Abstract No. 208, Gregg County, Texas, and being that tract referenced in document recorded in Volume 1480, Page 328, of the deed records of Gregg County, Texas.

Being 7.00 acres of land, more or less, located in the Mary Van Winkle Survey, Gregg County, Texas, said 7.00 acres being a part of the Utzman estate 175 acre tract described in Deed recorded in Vol. 28, Page 93, Deed Records, Gregg County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8" iron rod for the occupied NEC of the above mentioned 175 acre tract, said beginning point being on the S ROW line of the I & GN RRY, and the W ROW line of U. S. Highway No. 259; THENCE S 17 deg. 55' W, 770.98 feet along the W ROW line of U. S. Highway No. 259 to a point in same for the PLACE OF BEGINNING of the herein described 7.00 acre tract;

THENCE S 17 deg. 55' W, 78.72 feet and S 19 deg. 49' E, 214.7 feet along the W ROW line of said U. S. Highway No. 259 to a point in same for corner;

THENCE S 70 deg. 11' W, 55.0 feet to a point for corner;

THENCE S 19 deg. 49' E, 30.0 feet to a point for corner;

THENCE N 70 deg. 11' E, 55.0 feet to a point for corner, same being in the W ROW line of Highway No. 259;

THENCE S 19 deg. 49' E, 50.0 feet to a 3/8" iron rod for corner;

THENCE S 25 deg. 28' W, 155.0 feet along the chord of a curve to the right on the W ROW line of said Highway No. 259 to a point in same for corner;

THENCE N 55 deg. 12' W, 441.4 feet to a point for corner;

THENCE S 34 deg. 48' W, 43.96 feet to a 3/8" iron rod for corner;

THENCE N 55 deg. 12' W, 98.6 feet and N 52 deg. 22' W, 300.0 feet to a 3/8" iron rod for corner;

THENCE N 34 deg. 48' E, 492.5 feet to a 3/8" iron rod for corner;

THENCE N 76 deg. 45' E, 172.0 feet to a point for corner;

THENCE S 34 deg. 48' W, 245.45 feet to a point for corner;

THENCE S 55 deg. 12' E, 201.16 feet to a point for corner;

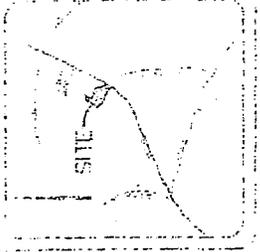
THENCE N 34 deg. 48' E, 53.0 feet to a point for corner;

THENCE S 55 deg. 12' E, 235.22 feet to the PLACE OF BEGINNING for the herein described tract.

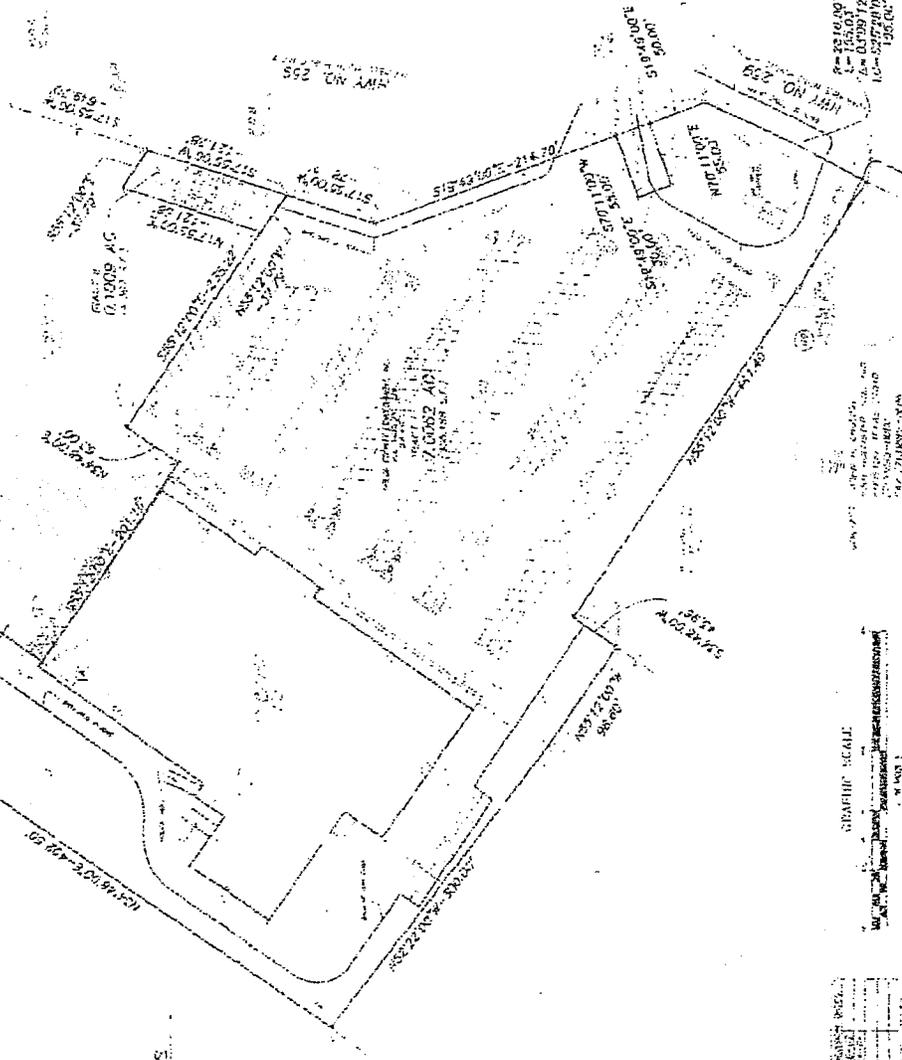
LEGAL DESCRIPTION

... (faded text describing the legal description of the property) ...

VICINITY MAP



ALTA LINDA LAND TITLE SURVEY



*John C. Mabe*



**REKHA ENGINEERING INC.**  
A REGISTERED PROFESSIONAL ENGINEERING FIRM  
10000 WILSON AVENUE, SUITE 100  
DUBLIN, CALIFORNIA 94568  
TEL: (925) 835-1100  
FAX: (925) 835-1101

LEGEND OF SYMBOLS & ABBREVIATIONS

|   |                 |    |                       |
|---|-----------------|----|-----------------------|
| 1 | Survey Boundary | 10 | Proposed Right-of-Way |
| 2 | Survey Boundary | 11 | Proposed Right-of-Way |
| 3 | Survey Boundary | 12 | Proposed Right-of-Way |
| 4 | Survey Boundary | 13 | Proposed Right-of-Way |
| 5 | Survey Boundary | 14 | Proposed Right-of-Way |
| 6 | Survey Boundary | 15 | Proposed Right-of-Way |
| 7 | Survey Boundary | 16 | Proposed Right-of-Way |
| 8 | Survey Boundary | 17 | Proposed Right-of-Way |
| 9 | Survey Boundary | 18 | Proposed Right-of-Way |

GENERAL NOTES

1. This survey was prepared in accordance with the California Land Title Act and the California Surveying Act.

2. The survey was conducted on the ground and the accuracy of the measurements is guaranteed.

3. The survey was conducted on the ground and the accuracy of the measurements is guaranteed.

SCHEDULE B TITLE EXCEPTION NOTES

- (1) Easement for utility lines over the property.
- (2) Easement for utility lines over the property.
- (3) Easement for utility lines over the property.
- (4) Easement for utility lines over the property.
- (5) Easement for utility lines over the property.
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- (18) Easement for utility lines over the property.
- (19) Easement for utility lines over the property.
- (20) Easement for utility lines over the property.

POTENTIAL ENCROACHMENT NOTES

- (1) Potential encroachment of utility lines over the property.
- (2) Potential encroachment of utility lines over the property.
- (3) Potential encroachment of utility lines over the property.
- (4) Potential encroachment of utility lines over the property.
- (5) Potential encroachment of utility lines over the property.
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- (14) Potential encroachment of utility lines over the property.
- (15) Potential encroachment of utility lines over the property.
- (16) Potential encroachment of utility lines over the property.
- (17) Potential encroachment of utility lines over the property.
- (18) Potential encroachment of utility lines over the property.
- (19) Potential encroachment of utility lines over the property.
- (20) Potential encroachment of utility lines over the property.

ZONING NOTES

1. The property is zoned as follows: [Zoning Code]

2. The property is zoned as follows: [Zoning Code]

3. The property is zoned as follows: [Zoning Code]

FLOOD ZONE NOTES

1. The property is located in a flood zone.

2. The property is located in a flood zone.

3. The property is located in a flood zone.

**REKHA ENGINEERING INC.**  
10000 WILSON AVENUE, SUITE 100  
DUBLIN, CALIFORNIA 94568  
TEL: (925) 835-1100  
FAX: (925) 835-1101

GRAPHIC SCALE

1" = 100' (approx.)

1" = 100'

**GPS Coordinates of MSD Property**

32.397852<sup>0</sup> N. LAT., -94.853863<sup>0</sup> W. LONG.

32.398527<sup>0</sup> N. LAT., -94.855029<sup>0</sup> W. LONG.

32.398339<sup>0</sup> N. LAT., -94.855192<sup>0</sup> W. LONG.

32.399048<sup>0</sup> N. LAT., -94.856215<sup>0</sup> W. LONG.

32.400246<sup>0</sup> N. LAT., -94.855267<sup>0</sup> W. LONG.

32.400331<sup>0</sup> N. LAT., -94.854769<sup>0</sup> W. LONG.

32.399776<sup>0</sup> N. LAT., -94.855202<sup>0</sup> W. LONG.

32.399429<sup>0</sup> N. LAT., -94.854603<sup>0</sup> W. LONG.

32.399529<sup>0</sup> N. LAT., -94.854494<sup>0</sup> W. LONG.

32.399328<sup>0</sup> N. LAT., -94.854131<sup>0</sup> W. LONG.

32.399674<sup>0</sup> N. LAT., -94.854070<sup>0</sup> W. LONG.

32.399603<sup>0</sup> N. LAT., -94.853911<sup>0</sup> W. LONG.

32.399041<sup>0</sup> N. LAT., -94.854033<sup>0</sup> W. LONG.

32.398573<sup>0</sup> N. LAT., -94.853850<sup>0</sup> W. LONG.

32.398515<sup>0</sup> N. LAT., -94.854018<sup>0</sup> W. LONG.

32.398437<sup>0</sup> N. LAT., -94.853984<sup>0</sup> W. LONG.

32.398490<sup>0</sup> N. LAT., -94.853981<sup>0</sup> W. LONG.

32.398133<sup>0</sup> N. LAT., -94.853693<sup>0</sup> W. LONG.

**Exhibit B**  
**Municipal Setting Designation**  
**Affidavit of Eligibility**

BEFORE ME, the undersigned authority, on this day personally appeared  
Damon Waresback, as an authorized representative of  
Atwood Distributing L.P., 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.

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

- The MSD eligibility criteria of THSC Section 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 has been 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.

*Damon Waresback*  
Signature

Date: 1/7/14

Damon Waresback  
Printed Name

Remedial Services Manager  
Title

STATE OF Texas

COUNTY OF Tarrant

SUBSCRIBED AND SWORN before me on this the 7 day of  
JANUARY 2014, to which witness my hand and seal of office.

*Jody McBeath*  
Notary Public in and for the State of TEXAS

