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2001-02-02 10:26:40

Cook County Recorder 35.50

PREPARED BY:

Name: Sky-View Wholesale Nursery Sales Co., Inc.

Address: 642 South Milwaukee Avenue, Wheeling, IL 60090



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RETURN TO:

Name: Sky-View Wholesale Nursery Sales Co., Inc.

Address: 950 North Weston Avenue, Suite 6C, Lake Forest, IL 60045

THE ABOVE SPACE FOR RECORDER'S OFFICE

LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK(S) ASSOCIATED WITH THE RELEASE REFERENCED BELOW, WITHIN 45 DAYS OF RECEIVING THE NO FURTHER REMEDIATION LETTER CONTAINING THIS NOTICE, MUST SUBMIT THIS NOTICE AND THE REMAINDER OF THE NO FURTHER REMEDIATION LETTER TO THE OFFICE OF THE RECORDER OR REGISTRAR OF TITLES OF COOK COUNTY IN WHICH THE SITE DESCRIBED BELOW IS LOCATED.

Illinois EPA Number: #0314977575

LUST Incident No.: #942576

Sky-view Wholesale Nursery Sales Co., Inc.; the owner and operator of the leaking underground storage tank(s) associated with the above-referenced incident, whose mailing address is 950 North Western Avenue, Suite 6C, Lake Forest, IL, has performed investigative and remedial activities for the site identified as follows:

1. Legal description or Reference to a Plat Showing the Boundaries: see Legal Attachment
2. Common Address: 642 South Milwaukee Avenue, Wheeling, IL
3. Real Estate Tax Index/Parcel Index Number: 03-12-300-050-0000
4. Site Owner: Sky-view Wholesale Nursery Sales Co., Inc.
5. Land Use Limitation: The groundwater under the site shall not be used as a potable water supply.
6. See the attached No Further Remediation Letter for other terms.

EK

Leaking Underground Storage Tank Environmental Notice

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SURVEY SERVICE, INC.
Registered Land Surveyors

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PLAT OF SURVEY

of

THE EAST 25 FEET OF THE WEST 914.92 FEET OF THAT PART OF LOT 25 IN ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 12, LYING NORTH OF THE SOUTH 200.0 FEET OF SAID LOT 25, AND THAT PART OF THE SOUTH 200.0 FEET OF SAID LOT 25, WEST OF THE CENTER LINE OF MILWAUKEE AVENUE AND THAT PART OF LOTS 1 AND 2 OF GREWE'S SUBDIVISION OF THAT PART LYING WEST OF THE CENTER OF DES PLAINES RIVER OF LOTS 26, 32, AND 33 OF ASSESSOR'S DIVISION IN SAID SOUTHWEST 1/4 OF SECTION 12, DESCRIBED AS LYING EAST OF A LINE DRAWN FROM A POINT ON THE NORTH LINE OF THE SOUTH 200 FEET OF LOT 25, 909.92 FEET EAST OF THE WEST LINE OF LOT 25, TO A POINT ON THE SOUTH LINE OF LOT 2 IN GREWE'S SUBDIVISION, 944.74 FEET EAST OF THE SOUTHWEST CORNER THEREOF (EXCEPTING THEREFROM THAT PART WHICH LIES NORTH OF A LINE 66.0 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 2 AND WHICH LIES EAST OF A LINE DRAWN PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 2 FROM A POINT IN SAID SOUTH LINE, SAID POINT BEING 1441.65 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 2) ALL IN TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

ALL THAT PART OF THE SOUTH 200 FEET OF LOT 25 IN ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 12, LYING WEST OF THE CENTER LINE OF MILWAUKEE AVENUE AND THAT PART OF LOT 1 AND 2 OF GREWE'S SUBDIVISION OF THAT PART LYING WEST OF THE CENTER LINE OF DES PLAINES RIVER OF LOTS 26, 32, AND 33 OF ASSESSOR'S DIVISION IN SAID SOUTHWEST 1/4, ALL OF WHICH LIES NORTH OF A LINE 66.0 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 2 AND EAST OF A LINE DRAWN PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 2 FROM A POINT ON SAID SOUTH LINE, SAID POINT BEING 1441.65 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 2, ALL IN TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART OF THE AFORESAID PROPERTY TAKEN FOR HIGHWAY PURPOSES DESCRIBED AS FOLLOWS : THAT PART OF THE SOUTH HALF OF SECTION 12, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN AND PART OF LOTS 1 AND 2 IN GREWE'S SUBDIVISION, BEING A SUBDIVISION OF PART OF SECTION 12, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 4, 1924 AS DOCUMENT NO. L.R. 218350, COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS : BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 2 AND THE CENTERLINE OF MILWAUKEE AVENUE; THENCE NORTHWESTERLY 2701.65 FEET ALONG SAID CENTERLINE ON AN ASSUMED BEARING OF NORTH 24 DEGREES 51 MINUTES 09 SECONDS WEST; THENCE NORTHWESTERLY 928.79 FEET ALONG SAID CENTERLINE ON A TANGENTIAL CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 23,423.57 FEET, CENTRAL ANGLE 2 DEGREES 16 MINUTES 19 SECONDS TO THE NORTH LINE OF THE SOUTH 200 FEET OF THE NORTH 20 RODS OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE NORTH 89 DEGREES 17 MINUTES 38 SECONDS WEST, 54.46 FEET ALONG SAID NORTH LINE, THENCE SOUTH 22 DEGREES 41 MINUTES 49 SECONDS EAST, 126.01 FEET, THENCE SOUTH 16 DEGREES 24 MINUTES 45 SECONDS EAST, 87.94 FEET; THENCE SOUTH 23 DEGREES 04 MINUTES 49 SECONDS EAST, 22.86 FEET; THENCE SOUTH 39 DEGREES 32 MINUTES 32 SECONDS EAST, 90.73 FEET TO A POINT ON A 23,473.57 FOOT RADIUS CURVE, CENTER OF CIRCLE BEARS NORTH 66 DEGREES 40 MINUTES 31 SECONDS EAST FROM SAID POINT, THENCE SOUTHEASTERLY 625.93 FEET ALONG SAID CURVE, CENTRAL ANGLE 1 DEGREE 31 MINUTES 40 SECONDS; THENCE SOUTH 24 DEGREES 51 MINUTES 09 SECONDS EAST, 246.74 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE SOUTH 89 DEGREES 17 MINUTES 38 SECONDS EAST, 55.42 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING). ALL IN COOK COUNTY, ILLINOIS.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

THOMAS V. SKINNER, DIRECTOR

RECORDING REQUIREMENTS FOR NO FURTHER REMEDIATION LETTERS

Introduction

The Illinois EPA's Bureau of Land (BOL) issues a No Further Remediation (NFR) Letter at the completion of site remediation activities under the LUST Program and the SRP. The letter signifies that 1) the person conducting remediation has satisfied the respective BOL laws and regulations, and 2) that no further remediation is necessary to protect human health and the environment for the property described in the letter, so long as the site is used in accordance with the terms of the NFR letter.

Significance

When properly recorded, the NFR Letter holds legal significance for all applicable parties outlined in the Illinois Environmental Protection Act for the program in question. (See 415 ILCS 5/57.10(d) and 58.10(d)). However, if not properly recorded, the NFR Letter holds no legal significance for anyone. Furthermore, if not properly recorded, the Illinois EPA will take steps to void the NFR letter in accordance with the regulations pertaining to the program under which the remediation was performed.

Duty to Record

The duty to record the NFR Letter is *mandatory*. You *must* submit the letter and environmental notice to the Office of the Recorder or the Registrar of Titles of the county where the site is located *within 45 days after receipt of the letter*. You must record both the NFR Letter and the Environmental Notice. Both must be recorded in accordance with Illinois law so that it forms a permanent part of the chain of title to ensure current and future users of the property will be informed of the conditions of the institutional controls. A certified copy of the letter and environmental notice as recorded must be sent to the Illinois EPA. Failure to record the NFR Letter and environmental notice in accordance with the regulations will make the letter voidable.

For More Information

Please refer to Tiered Approach to Corrective Action Objectives (TACO) Fact Sheet 3 available from the Illinois EPA by calling 1-888-299-9533 or by accessing it on our Agency's website directly at <http://www.epa.state.il.us/land/taco/3-no-further-remediation-letters.html>.

GEORGE H. RYAN, GOVERNOR

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX.19276, SPRINGFIELD, ILLINOIS 62794-9276

THOMAS V. SKINNER, DIRECTOR

217/782-6762

JAN 26 2001

Dated December 22, 2000
Reissued January 24, 2001

CERTIFIED MAIL

0001 2085 9755

Sky-View Wholesale Nursery Sales Co., Inc.
950 North Western Avenue, Suite 6C
Lake Forest, IL 60045

Re: LPC #0314977575 -- Cook County
Wheeling/Sky-view Wholesale Nursery Sales Co., Inc.
642 South Milwaukee Avenue
LUST Incident No. 942576
LUST Technical File

Dear Sirs:

The Illinois Environmental Protection Agency ("Illinois EPA") has reviewed the corrective action completion report submitted for the above-referenced incident. This information was dated November 22, 2000; was received by the Agency November 27, 2000; and was prepared by Engineering Consulting Services, Ltd.

The High Priority Corrective Action Completion Report and associated Professional Engineer Certification indicate that the corrective action for the above-referenced site was conducted in accordance with the Corrective Action Plan submitted to the Illinois EPA. The Corrective Action Completion Report has demonstrated that the requirements of Section 57.7(c)(1)(E) of the Environmental Protection Act and 35 Illinois Administrative Code Section 732.409(a)(2) have been satisfied.

Based upon the certification by Bret Gitskin, a Registered Professional Engineer of Illinois, and pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), your request for a no further remediation determination is granted under the conditions and terms specified in this letter.

Issuance of this No Further Remediation Letter ("Letter"), based on the certification of the Registered Professional Engineer, signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with; (2) all corrective action concerning the occurrence has been completed; and (3) no further remediation concerning the occurrence is necessary for the protection of human health, safety and the environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following persons:

GEORGE H. RYAN, GOVERNOR

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1. The *Sky-View Wholesale Nursery Sales Co., Inc.*;
2. The owner and operator of the UST(s);
3. Any parent corporation or subsidiary of the owner or operator of the UST(s);
4. Any co-owner or co-operator, either by joint-tenancy, right of survivorship, or any other party sharing a legal relationship with the owner or operator to whom the letter is issued;
5. Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable;
6. Any mortgagee or trustee of a deed of trust of the owner of the site or any assignee, transferee, or any successor-in-interest of the owner of the site;
7. Any successor-in-interest of such owner or operator;
8. Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest; or
9. Any heir or devisee of such owner or operator.

This Letter, and all attachments, including but not limited to the Leaking Underground Storage Tank Environmental Notice, must be filed within 45 days of its receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the County where the above-referenced site is located. This Letter shall not be effective until officially recorded by the Office of the Recorder or Registrar of Titles of the applicable County in accordance with Illinois law so it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA. For recording purposes, it is recommended that the Leaking Underground Storage Tank Environmental Notice of this Letter be the first page of the instrument filed.

CONDITIONS AND TERMS OF APPROVAL

LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. This site was classified as "High Priority" in accordance with Section 57.7(b)(3) of the Act and 35 IAC Section 732.304. In accordance with 35 IAC Section 732.404(a), the owner or operator has addressed each of the criteria that caused the site to be classified as High Priority. Remediation objectives, in accordance with the requirements of the Tiered Approach to Corrective Action Objectives (35 IAC Part 742) rules, for the above-referenced

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site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, were not established.

2. As a result of the release from the underground storage tank(s) associated with the above-referenced incident, the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter, shall not be used in a manner inconsistent with the following land use limitation: The groundwater under the site shall not be used as a potable water supply. It has been demonstrated that the groundwater under the site meets Class II (General Resource) groundwater criteria, rather than Class I (Potable Resource) groundwater. Groundwater classifications are defined at 35 IAC Part 620, Subpart B.
3. The land use limitation specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS

4. Preventive: The groundwater under the site described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter shall not be used as a potable supply of water. No person shall construct, install, maintain or utilize a potable water supply well. In accordance with Section 3.65 of the Act, "potable" means generally fit for human consumption in accordance with accepted water supply principles and practices.

Engineering: None.

Institutional: This Letter shall be recorded as a permanent part of the chain of title for the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this letter.

5. Failure to establish, operate, and maintain controls in full compliance with the Act, applicable regulations, and the approved corrective action plan may result in voidance of this Letter.

OTHER TERMS

6. Any contaminated soil or groundwater removed, or excavated from, or disturbed at the above-referenced site, more particularly described in the Leaking Underground Storage Tank

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Environmental Notice of this Letter, must be handled in accordance with all applicable laws and regulations.

7. Further information regarding the above-referenced site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attention: Freedom of Information Act Officer
Bureau of Land - #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

8. Pursuant to Section 57.10(e) of the Act (415 ILCS 5/57.10(e)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the owner or operator of the leaking underground storage tank(s) associated with the above referenced incident and the current title holder of the real estate on which the tanks were located, at their last known addresses. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of the voidance. Specific acts or omissions that may result in the voidance of this Letter include, but shall not be limited to:
- a) Any violation of institutional controls or industrial/commercial land use restrictions;
 - b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c) The disturbance or removal of contamination that has been left in-place in accordance with the Corrective Action Plan or Completion Report;
 - d) The failure to comply with the recording requirements for the Letter;
 - e) Obtaining the Letter by fraud or misrepresentation; or
 - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment.

Within 35 days after the date of mailing of this final decision, the owner or operator may petition for a hearing before the Illinois Pollution Control Board ("Board") to contest the decision of the Illinois EPA. (For information regarding the filing of an appeal, please contact the Board at 312/814-3620.) However, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the owner or operator and the Illinois EPA within the 35-day initial appeal period. (For information regarding

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the filing of an extension, please contact the Illinois EPA's Division of Legal Counsel at 217/782-5544.)

Submit the certified copy of this letter, as recorded, to:

Illinois Environmental Protection Agency
Bureau of Land - #24
LUST Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Eric Kuhlman, at 217/782-6762.

Sincerely,



Kendra N. Brockamp
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

Attachments: Leaking Underground Storage Tank Environmental Notice
Legal Description of Property

cc: Ramona Plavita, Engineering Consulting Services, Ltd.
Division File