

UNOFFICIAL COPY

0010174018

52/0039 15 005 Page 1 of 10  
2001-03-06 13:57:19  
Cook County Recorder 39.50



PREPARED BY:

Name: Equilon Enterprises LLC  
Attention: Lisa Schoedel

Address: 603 West Diehl Road, Suite 103  
Naperville, Illinois 60563

RETURN TO:

Name: Equilon Enterprises LLC  
Attention: Lisa Schoedel

Address: 603 West Diehl Road, Suite 103  
Naperville, Illinois 60563

**COOK COUNTY  
RECORDER  
EUGENE "GENE" MOORE  
ROLLING MEADOWS**



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: 0316255073

LUST Incident No.: 990381

Equilon Enterprises LLC, the owner and operator of the leaking underground storage tank(s) associated with the above-referenced incident, whose address is 603 West Diehl Road, Suite 103 Naperville, Illinois, has performed investigative and/or remedial activities for the site identified as follows:

1. Legal description or Reference to a Plat Showing the Boundaries: LOTS 23 TO 27 IN BLOCK 3 IN HOGENSON AND SCHMIDT'S ADDITION TO LINDEN PARK A SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.
2. Common Address: 5150 West Chicago Avenue, Chicago, Illinois
3. Real Estate Tax Index/Parcel Index Number: 16-04-423-040
4. Site Owner: Equilon Enterprises LLC
5. Land Use Limitation: There are no land use limitations.
6. See the attached No Further Remediation Letter for other terms.

10  
28



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

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

THOMAS V. SKINNER, DIRECTOR

217/782-6762

CERTIFIED MAIL

**FEB 08 2001**

0001 1272 7383

Equilon Enterprises LLC  
Attention: Lisa Schoedel  
603 West Diehl Road, Suite 103  
Naperville, Illinois 60563

Re: LPC #0316255073 -- Cook County  
Chicago/Equilon Enterprises LLC  
5150 West Chicago Avenue  
LUST Incident No. 990381  
LUST Technical File

**FEB 14 2001**

Dear Ms. Schoedel:

The Illinois Environmental Protection Agency ("Illinois EPA") has reviewed the High Priority Corrective Action Completion Report submitted for the above-referenced incident. This information is dated December 22, 2000; was received by the Illinois EPA December 26, 2000; and was prepared by ERS of Illinois, Inc. Citations in this letter are from the Environmental Protection Act ("Act") and 35 Illinois Administrative Code ("35 IAC").

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

Based upon the certification by Scott Beasley, 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:

1. Equilon Enterprises LLC;
2. The owner and operator of the UST(s);

GEORGE H. RYAN, GOVERNOR

Page 2

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. In addition, the Memorandum of Understanding and Groundwater Ordinance must be filed as an attachment of this letter with the Office of the Recorder or Registrar of Titles of the applicable county. 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. The remediation objectives for the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, were established in accordance with the requirements of the Tiered Approach to Corrective Action Objectives (35 IAC Part 742) rules.
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: There are no land use limitations.

Page 3

- 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: None.

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.

City of Chicago highway authority agrees, through the use of a Highway Authority Agreement, to allow contaminated groundwater or soils to remain beneath its highway right-of-way adjacent to the site located at 5150 West Chicago Avenue in Chicago, Illinois contamination will remain in the right-of-way for Chicago Avenue and Laramie Avenue as indicated in the Highway Authority Agreement. The Highway Authority agrees (a) to prohibit the use of groundwater under the highway right-of-way that is contaminated above residential Tier 1 remediation objectives from the release as a potable or other domestic supply of water, and (b) to limit access to soil contamination under the highway right-of-way that is contaminated above residential Tier 1 remediation objectives. A copy of the Highway Authority Agreement can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to the Bureau of Land, FOIA Unit as detailed elsewhere in this letter. Questions regarding the Highway Authority Agreement should be directed to Commissioner, Department of Environment, 30 N. LaSalle Street, Suite 2500, Chicago, Illinois 60602 at 312-744-7606.

Sections 11-8-385 and 11-8-390 of the Municipal Code of Chicago as amended by Ordinance Number 097990 ("Potable Water Supply Well Ordinance") effectively prohibits the installation of potable water supply wells (and the use of such wells) and is an acceptable institutional control under the following conditions:

Each affected or potentially affected (as shown through contaminant modeling) property owner and the City of Chicago must receive written notification from the owner/operator desiring to use the ordinance as an institutional control that groundwater remediation objectives have been approved by the Illinois EPA. Written proof of this notification shall be submitted to the Illinois EPA within 45 days from the date of this Letter. The notification shall include:

- a) The name and address of the local unit of government;
- b) The citation of the ordinance used as an institutional control in this Letter.
- c) A description of the property being sent notice by adequate legal description or by reference to a plat showing the boundaries;
- d) A statement that the ordinance restricting the groundwater use has been used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
- e) A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
- f) A statement as to where more information may be obtained regarding the ordinance.

The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:

- a) Modification of the reference ordinance to allow potable uses of groundwater;
- b) Approval of a site-specific request, such as a variance, to allow use of groundwater at the site;
- c) Violation of the terms of an institutional control recorded.

As a part of its corrective action, the LUST site has relied upon Sections 11-8-385 and 11-8-390 of the Municipal Code of Chicago, as amended by Ordinance No. 097990, prohibiting potable uses of groundwater as defined therein. Proof of notification of affected parties, if any, shall be submitted in accordance with 35 IAC 742.1015(b) and (c) within 45 days of the issuance of this NFR 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 Environmental Notice of this Letter, must be handled in accordance with all applicable laws and regulations.

Page 5

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

Page 6

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, Mohammed Zahir Rahman, at 217-782-6762.

Sincerely,



Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

Attachments: Leaking Underground Storage Tank Environmental Notice  
City of Chicago Groundwater Ordinance

cc: ERS of Illinois, Inc.  
Division File

Property of Cook County Clerk's Office

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. Chapter 11-8 of the Municipal Code of Chicago is hereby amended by adding a new Section 11-8-385 and by amending Section 11-8-390 by inserting the language in italics, as follows:

*11-8-385 Potable Water Defined.*

*Potable water is any water used for human consumption, including, but not limited to water used for drinking, bathing, washing dishes, preparing foods and watering gardens in which produce intended for human consumption is grown.*

*11-8-390 Prohibited Use Of Secondary Water; Prohibited Installation Of New Potable Water Supply Wells.*

No secondary water shall overflow into or be discharged into any surge tank, storage tank, or reservoir, or shall in any way be piped or conveyed into the water supply system of any building, structure, or premises to become a part of or be mixed with the fresh water supply from the mains of the Chicago Waterworks System either inside of the premises or in the water service pipe. Secondary water shall not be piped to or used in any plumbing fixture, or for cooling crushers, rollers, or mixers where foods, candies, liquids or materials are manufactured for human or animal consumption. No connection, tap, or opening shall be made in a water distribution system other than an approved water distribution system which will permit such water being used for drinking.

Wherever the fire-protective equipment in any building, structure or premises has service from the Chicago Waterworks System, no pipe or other conduit which conveys secondary water shall be cross-connected to the fire-protective equipment. All fire-protective equipment connected to the Chicago Waterworks System shall be constructed in such manner that

EXHIBIT

A



**UNOFFICIAL COPY**

all tanks, pipes, pumps, surge tanks, and fire hydrants can be thoroughly drained, flushed and cleaned by the owners of such equipment and premises and there shall be no direct connections from the tanks, pipes and other equipment to any drainage pipes or sewers. *No groundwater well, cistern or other groundwater collection device installed after the effective date of this amendatory ordinance may be used to supply any potable water supply system, except at points of withdrawal by the City of Chicago or by units of local government pursuant to intergovernmental agreement with the City of Chicago.*

SECTION 2. Section 2-30-030 of the Municipal Code of Chicago is hereby amended by deleting the language in brackets and inserting the language in italics, as follows:

2-30-030. Commissioner - Powers And Duties Designated.

The commissioner of the environment shall have the following powers and duties:

\* \* \* \* \*

(21) To enter into grant agreements, cooperation agreements and other agreements or contracts with governmental entities, private business and civic and community groups necessary to implement the Green Streets Program and other urban forestry, beautification and environmental enhancement programs; *and agreements to implement the State of Illinois Site Remediation Program,*

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval.

UNOFFICIAL COPY

STATE OF ILLINOIS  
County of Cook.

I, JAMES J. LASKI, City Clerk of the City of Chicago in the County of Cook and State of Illinois, DO HEREBY CERTIFY that the annexed and foregoing is a true and correct copy of that certain ordinance now on file in my office an ordinance amending Title 11, Chapter 8 and Title 2, Chapter 30 of the Municipal Code of Chicago by establishment of definition of potable water, regulation of potable water supply system and empowerment of commissioner of environment for implementation of State of Illinois Site Remediation Program.

I DO FURTHER CERTIFY that the said ordinance was passed by the City Council of the said City of Chicago on the fourteenth ( 14th ) day of May, A. D. 1997 and deposited in my office on the fourteenth ( 14th ) day of May, A. D. 1997.

I DO FURTHER CERTIFY that the vote on the question of the passage of the said ordinance by the said City Council was taken by yeas and nays and recorded in the Journal of the Proceedings of the said City Council, and that the result of said vote so taken was as follows, to wit:  
Yeas 47 Nays None.

I DO FURTHER CERTIFY that the said ordinance was delivered to the Mayor of the said City of Chicago after the passage thereof by the said City Council, without delay, by the City Clerk of the said City of Chicago, and that the said Mayor failed to return the said ordinance to the said City Council with his written objections thereto at the next regular meeting of the said City Council occurring not less than five days after the passage of the said ordinance.

I DO FURTHER CERTIFY that the original, of which the foregoing is a true copy, is entrusted to my care for safe keeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Chicago aforesaid, at the said City, in the County and State aforesaid, this twenty-seventh ( 27th ) day of June, A. D. 1997.

[L. S.]

James J. Laski  
JAMES J. LASKI, City Clerk.