

UNOFFICIAL COPY

0021441764

12/27/02 11:00:11 Page 1 of 14

2002-12-27 12:18:33

Cook County Recorder

50.50

PREPARED BY:



0021441764

Name: Equilon Enterprises, LLC
Attention: John Robbins

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

RETURN TO:

Name: Equilon Enterprises, LLC
Attention: John Robbins

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

(THE ABOVE SPACE FOR RECORDER'S OFFICE)

LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK SYSTEM(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: 0316495058

LUST Incident No.: 990250

Shell Oil Products, the owner and/or operator of the leaking underground storage tank system(s) associated with the above-referenced incident, whose address is 603 Diehl Road, Suite 103 Naperville, Illinois 60563, has performed investigative and/or remedial activities for the site identified as follows :

1. Legal Description or Reference to a Plat Showing the Boundaries: See Attachment
2. Common Address: 11501 South Halsted Avenue, Chicago, Illinois
3. Real Estate Tax Index/Parcel Index Number: 25-21-300-029
4. Site Owner: Bank Chicago f/k/a East Side Bank and Trust
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.

JRM

Leaking Underground Storage Tank Environmental Notice

LEGEND

- FORMER UST
- DISPENSER
- ⊕ MONITORING WELL
- SOIL BORING



FIGURE 2

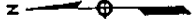
EXTENT OF ENGINEERED BARRIER

FORMER SHELL SERVICE
 STATION #136965
 11501 SOUTH HALSTED STREET
 CHICAGO, ILLINOIS

DRAWN BY: KEVIN MIROCK
 CHECKED BY: PAUL McDONNELL
 DATE: 6/3/02
 NOT A LEGAL SURVEY
 BASED ON DOCUMENTATION PROVIDED BY SHELL OIL PRODUCTS US



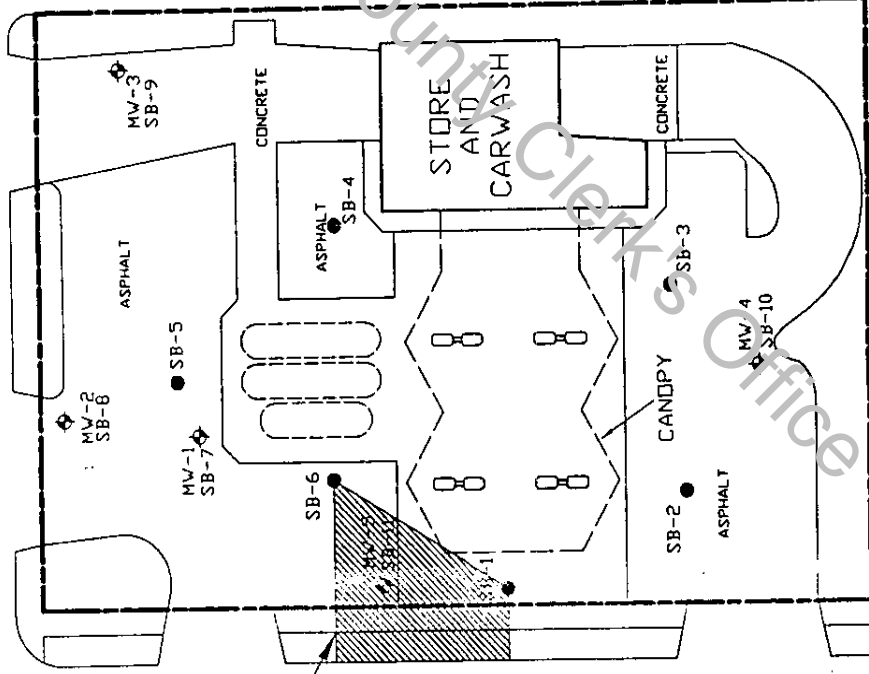
NESA



115TH STREET

SB-12

GP-1



PROPOSED EXTENT OF ENGINEERED BARRIER

HALSTED STREET

Property of Cook County Clerk's Office

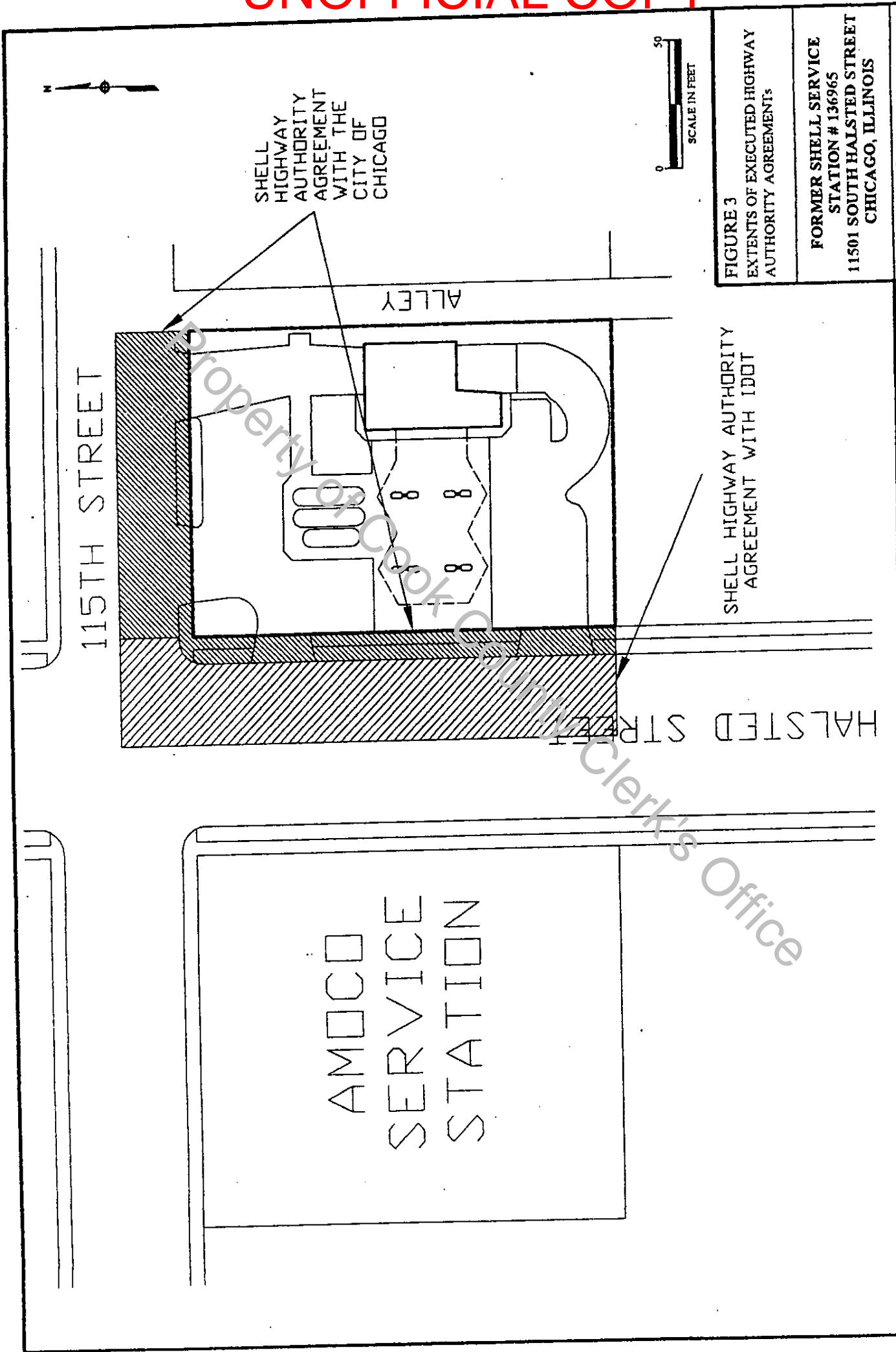


FIGURE 3
 EXTENTS OF EXECUTED HIGHWAY
 AUTHORITY AGREEMENTS

FORMER SHELL SERVICE
 STATION # 136965
 11501 SOUTH HALSTED STREET
 CHICAGO, ILLINOIS



NOT A LEGAL SURVEY, DRAWING BASED ON DOCUMENTATION
 PROVIDED BY SHELL OIL PRODUCTS US

DATE:
 4/16/02

CHECKED BY:
 PAUL McDONNELL

DRAWN BY:
 KEVIN MIROCK

UNOFFICIAL COPY

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

SECTION: 11-8 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 convey 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

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.

Clerk's Office

**LEGAL DESCRIPTION
FOR
11501 S. HALSTED ST., CHICAGO, IL**

Lots 46, 47, 48 and the north 1/2 of lot 49 (except from lots 46, 47, 48 and the north 1/2 lot 49 that part lying west of a line 50 feet east of and parallel with the west line of section 21) in Sharpshooter's Park subdivision of part of Sharpshooter's Park, said Park being a subdivision of the west 1/2 of the southwest 1/4 of section 21, township 37 north, range 14, east of the third principal meridian, in Cook County, Illinois.

Property of Cook County Clerk's Office



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

GEORGE H. RYAN, GOVERNOR RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

Original Date Mailed – November 15, 2002
Revised Letter Mailed –

2002-2030-0001-1873-3045

NOV 22 2002

Equilon Enterprises, LLC
Attention: John Robbins
603 Diehl Road, Suite 103
Naperville, Illinois 60563

Re: LPC 0316495058 - Cook County
Chicago/ Shell Service Station #212-1545-5003
11501 Halsted Street
LUST Incident No. 990250
LUST Technical File

Dear Mr. Robbins:

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 October 30, 2002 and was received by the Illinois EPA on November 6, 2002. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The original NFR Letter dated November 15, 2002, contained the incorrect site owner. The correct site owner was obtained with a revised letter issued at this time.

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 Ill. Adm. Code 732.409(a)(2) have been satisfied.

Based upon the certification by Keith Gordon Brown, a Licensed Professional Engineer, 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.

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 Ill. Adm. Code 742) rules.
2. As a result of the release from the underground storage tank system(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.
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 No Further Remediation 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.

Prior to commencement of any future excavation and/or construction in or near the contaminated zone of the remediation site, a safety plan for this remediation site is required that is consistent with National Institute for Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities; Occupational Safety and Health Administration regulations, particularly in 29 CFR 1910 and 1926; state and local regulations; and other U.S. EPA guidance as provided. At a minimum, the plan should address possible worker exposure if any future excavation and construction activities occur within the contaminated soil.

Page 2

Issuance of this No Further Remediation Letter (Letter), based on the certification of the Licensed 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 remediation of the occurrence has been completed; and (3) no further corrective action 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 parties:

1. Shell Oil Products, the owner or operator of the underground storage tank system(s).
2. Any parent corporation or subsidiary of such owner or operator.
3. 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.
4. Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.
5. Any mortgagee or trustee of a deed of trust of such owner or operator.
6. Any successor-in-interest of such owner or operator.
7. 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.
8. 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 receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the county in which the above-referenced site is located. In addition, the 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 copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA by certified mail. 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.

Page 4

Engineering: A concrete/asphalt barrier that is sufficient in thickness to inhibit the inhalation and ingestion of the contaminated media, as well as to impede contaminant migration to the groundwater, must remain over the contaminated soil as outlined in the attached Site Base Map. This concrete/asphalt barrier is to be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media and/or to impede contaminant migration to the groundwater.

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.

Groundwater Use Ordinance

Section 11-8-390 of the Municipal Code of Chicago 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 or 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 in accordance with 35 Ill. Adm. Code 742.1015(b) and (c) within 45 days from the date this Letter is recorded. 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 referenced 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 a recorded institutional control.

As a part of its corrective action, the leaking underground storage tank site has relied upon Section 11-8-390 of the Municipal Code of Chicago that prohibits potable uses of groundwater as defined therein.

Highway Authority Agreement

City of Chicago Highway Authority and Illinois Department of Transportation agrees, through the use of a Highway Authority Agreement, to allow contaminated groundwater and/or soil to remain beneath its highway right-of-way adjacent to the site located at 11501 South Halsted Street, Chicago, Illinois. Specifically, as shown in the attached map, contamination will remain in the right-of-way for 115th Street and Halsted Street, as indicated in the Highway Authority Agreement. The Highway Authority agrees to: (a) prohibit the use of groundwater under the highway right-of-way that is contaminated above Tier 1 groundwater remediation objectives as a potable or other domestic supply of water, and (b) limit access to soil contamination under the highway right-of-way that is contaminated above residential Tier 1 soil remediation objectives. A copy of the Highway Authority Agreements 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:

IDOT
John P. Kos District One Manager
201 West Center Court
Schaumburg, Illinois 60196 – 1096

And

Page 6

Commissioner
Department of Environment
30 N. LaSalle Street
25th Floor
Chicago, Illinois 60602

5. Failure to establish, operate, and maintain controls in full compliance with the Act, applicable regulations, and the approved Corrective Action Plan, if applicable, 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 under 35 Ill. Adm. Code Subtitle G.
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)) and 35 Ill. Adm. Code 732.704, 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 system(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;

Page 7

- 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.

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544

Page 8

Submit the copy of this Letter, as recorded by certified mail, to:

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

If you have any questions or need further assistance, please contact the Illinois EPA project manager, James R. Malcom, III, at 217/524-9140.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC: JRM

Attachments: Leaking Underground Storage Tank Environmental Notice
Asphalt Engineer Barrier map
Highway Authority Agreement Map
Chicago Ordinance
Legal Description

cc: Division File

Property of Cook County Clerk's Office