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0021415702

399/0043 33 001 Page 1 of 24

2002-12-20 10:59:10

Cook County Recorder 70.50

PREPARED BY:

Name: Ms Paulette Gagliardo, President  
Columbus Foods Company

Address: 800 North Albany Street  
Chicago, Illinois 60622



0021415702

RETURN TO:

Name: Ms Paulette Gagliardo, President  
Columbus Foods Company

Address: 800 North Albany Street  
Chicago, Illinois 60622

This Environmental No Further Remediation Letter must be submitted by the remediation applicant within 45 days of its receipt, to the Office of the Recorder of Cook County.

Illinois State EPA Number: 0316005762 - Cook County

Columbus Foods Company, the Remediation Applicant, whose address is 800 North Albany Street, Chicago, Illinois 60622 has performed investigative and/or remedial activities for the remediation site depicted on the attached Site Base Map and identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries:

Parcel 1:

Lots 34 to 42 and the southwesterly  $\frac{1}{2}$  of the northwesterly-southeasterly 16 feet wide vacated alley lying northeasterly of and adjoining Lots 34 and 35 and the northeasterly line of Lot 35 extended easterly to the center line of the north-south 16 feet wide alley and also the west  $\frac{1}{2}$  of the north-south 16 feet wide alley lying east of and adjoining Lots 35 to 42, lying southwesterly of the northeasterly line of Lot 35 extended easterly and lying north of the southwesterly line of Lot 42 extended easterly in Starr, Gillette and Ward's Subdivision of Lots 63, 64 and 65 (except the railroad) in McIlroy's Subdivision of the West  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 1, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

Lots 14 to 33 and all of the east-west vacated alley lying north of and adjoining Lot 25, lying south and southwesterly of and adjoining Lot 26 and lying easterly of a line drawn from the northwest corner of Lot 25 to the southwest corner of Lot 26. Also, the northeasterly  $\frac{1}{2}$  of the northwesterly-southeasterly 16 feet wide vacated alley lying southwesterly of and adjoining Lots 27 to 33 and lying westerly of a line drawn from the northwest corner of Lot 25 to the southwest corner of Lot 26.

(Illinois EPA Site Remediation Program Environmental Notice)

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Also, the east ½ of the north-south 16 feet wide vacated alley lying west of and adjoining Lot 16 to 25 and west of a line drawn from the northwest corner of Lot 25 to the southwest corner of the center avenue of the northwesterly-southeasterly 16 feet wide alley and lying northeasterly of the southwesterly line of Lot 42 extended easterly in Starr, Gillette and Ward's Subdivision of the West ½ of the Southwest ½ of Section 1, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

2. Common Address: 3145 West Grand Avenue, Chicago, Illinois
3. Real Estate Tax Index/Parcel Index Number: 16-01-319-025 and 16-01-319-026
4. Remediation Site Owner: Columbus Foods Company
5. Land Use: Industrial/Commercial
6. Site Investigation: Comprehensive

See NFR letter for other terms.

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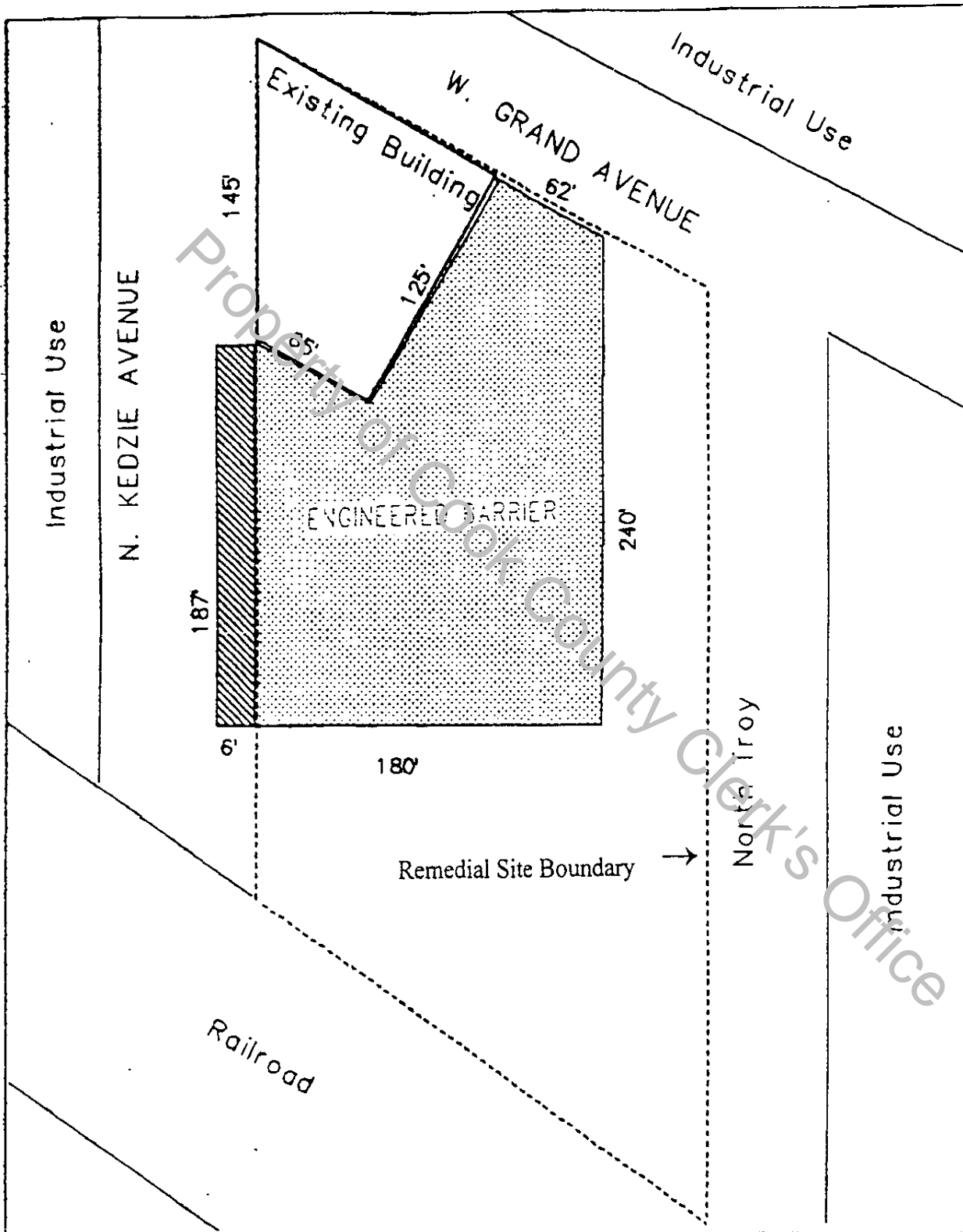
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Site Base Map  
0316005762 - Cook County  
Chicago/Columbus Foods  
Site Remediation Program

0021415702



 City-maintained Engineering Barrier

SCALE: 1"=approx. 75'



ENGINEERED BARRIER

From northwest corner, south 145' to point of beginning  
Thence south 187 feet, thence east 180 feet, thence  
north 240 feet, thence 62' northwesterly parallel to  
Grand Avenue, thence 125 feet southwesterly, thence 65 feet  
northwesterly parallel to Grand Avenue to point of beginning.

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TIERED APPROACH TO CORRECTIVE ACTION RIGHT-OF-WAY AGREEMENT

This Agreement is entered into this 15<sup>th</sup> day of MARCH, 2000 pursuant to the Environmental Protection Act ("Act"), 35 Ill. Admin. Code Section 742.1020 and the Municipal Code of the City of Chicago Section 2-30-030 ("Code") by and among the City of Chicago ("City") and Columbus Foods Company, Inc. ("Columbus Foods") as follows:

1. This Agreement is not binding on the City until it is executed by a duly authorized representative of the City, and prior to execution, this Agreement constitutes an offer by Columbus Foods. The duly authorized representatives of Columbus Foods have signed this Agreement; and this Agreement is binding upon them, their successors and assigns.
2. Columbus Foods stipulates:
  - a. Columbus Foods is pursuing corrective action at a Site and in the right-of-way adjacent to the Site located at 3145 West Grand Avenue ("Site"). Site is legally described in Attachment A.
  - b. The right-of-way adjacent to the Site, described in Attachment B, is subject to this Agreement and is possibly impacted with contaminants from a release at the Site.
  - c. Attached as Attachment C is a site map showing the area of contaminant impacted soil in the right-of-way where, at the time of this Agreement, contaminants exceed the Tier 1 residential remediation objectives under the Act and 35 Ill. Admin. Code Section 742. Also attached as Attachment D is a table showing the concentration of contaminants in soil and/or groundwater within the area described in Attachment B and showing the applicable Tier 1 soil and groundwater remediation objectives for residential property that are exceeded.
  - d. The corrective action is for high concentration of chromium and lead in shallow soil on the west side of the Site.
  - e. The Illinois Emergency Management Agency has ~~not~~ assigned an incident number to the Site, <sup>LPC# 03160057</sup>
  - f. Columbus Foods has requested risk-based, site-specific soil and/or groundwater remediation objectives from the Illinois Environmental Protection Agency ("Illinois EPA") under the Act and 35 Ill. Admin. Code Section 742.
  - g. Under 35 Ill. Admin. Code Section 742.1020, the use of risk-based, site-specific remediation objectives in the right-of-way require this Agreement, in lieu of remediation of the contaminant-impacted soil and/or groundwater.
3. The City stipulates that it holds the right-of-way described in Attachment B in trust for the public and has jurisdiction over the right-of-way.
4. The parties stipulate that:
  - a. This Agreement is intended to meet the requirements of the Illinois Pollution Control Board ("Board") regulations for such Agreements.
  - b. This Agreement shall be recorded by the Columbus Foods at its expense along with the Illinois EPA's "No Further Remediation" determination with the Cook County Recorder of Deeds. Columbus Foods will similarly record any attachments, addendums, or alterations to this Agreement. Within thirty (30) days of such recording with the Cook County Recorder of Deeds, the Columbus Foods shall provide the City a copy of the Agreement that has been stamped by the Cook County Recorder of Deeds to indicate that it has been recorded with that office.

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- c. This Agreement shall be null and void should the Illinois EPA not approve it, or should it not be recorded along with the Illinois EPA's "No Further Remediation" determination, or should the City not review and approve the "No Further Remediation" determination for the Site as it applies to the right-of-way identified in Attachment B.
5. The City agrees that it will prohibit by ordinance the use of groundwater that is contaminated at levels above Tier I residential remediation objectives beneath its right-of-way identified in Attachment B as a potable or other domestic supply of water. This prohibition is ensured in Code Section 11-8-390. The City further agrees that it will limit access to soil as described herein under the right-of-way described in Attachment B that is contaminated from the release at levels above the Tier I residential remediation objectives, as provided in Code Section 10-20-100 et seq., and by requiring applicants for a public way work permit in the right-of-way described in Attachment B to consult the City and complete Form No. DCE.ROW.01 (or successor document), Attachment E, before obtaining a permit.
  - a. Where the pavement in the right-of-way is to be considered an engineered barrier, the Columbus Foods agrees to reimburse the City for maintenance activities requested by Columbus Foods. Except for ordinary maintenance performed on City roadways, the City does not agree to maintain the right-of-way, nor does it guarantee that the right-of-way will continue as a roadway or that the right-of-way will always be maintained as an engineered barrier.
  - b. This agreement does not in any way limit the City's authority to construct, reconstruct, repair or maintain and operate a right-of-way upon the property identified in Attachment B or to allow others to do the same. To that extent, the City reserves the right to identify, investigate, and remove contaminated soil and/or groundwater above Tier I residential remediation objectives from the right-of-way identified in Attachment B and to dispose of them as it deems appropriate in accordance with applicable environmental regulations so as to avoid causing a further release of the contaminants and to protect human health and the environment. The Columbus Foods shall reimburse the actual costs incurred by the City or others in so identifying, investigating, removing, storing, handling or disposing of contaminated soil and/or groundwater, and it shall not be a defense for Columbus Foods that those costs were not consistent with or required by Board or United States Environmental Protection Agency regulations, guidelines or policies. Prior to incurring any such cost, the City shall first give Columbus Foods thirty days, unless there is an urgent reason otherwise, to remove or dispose of contaminated soil and/or groundwater to the extent necessary for the City's work. Such removal and disposal shall be in accordance with all applicable laws and regulations. There is a rebuttable presumption that the contamination found in the right-of-way described in Attachment B arose from the release of contaminants at the Site. Should Columbus Foods not reimburse the costs identified here, this Agreement shall be null and void in addition to such other remedies as may be available to the City by law.
6. The Columbus Foods agrees to indemnify and hold harmless the City, its agents and employees, and other entities using the right-of-way by a permit issued by the City, for all obligations asserted against or costs incurred by them associated with the release of contaminants of concern as described in Attachments C and D.
7. Violation of the terms of this Agreement by Columbus Foods, or its successor(s) in interest, may be grounds for avoidance of this Agreement as a Highway Authority Agreement.
8. No violation of a permit by a third party shall constitute a breach of this Agreement by the City. Columbus Foods also agrees that its personnel, if any, at the Site will exercise due diligence in notifying those accessing contaminated soil in the right-of-way of their rights and responsibilities under this Agreement.
9. Should the City breach this Agreement, Columbus Foods' sole remedy is for an action for damages in the Circuit Court of Cook County. Any and all claims for damages against the City, its agents, contractors, employees or its successors in interest or others under permit from the City arising at any

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time are limited to an aggregate maximum of \$20,000.00. No other breach by the City, its successors in interest or others under permit, of a provision of this Agreement is actionable in either law or equity by Columbus Foods against the City or them and Columbus Foods hereby releases the City, its agents, contractors, employees and its successors in interest, or others under permit from the City for any cause of action it may have against them, other than as allowed in this paragraph, arising under this Agreement or environmental laws, regulations or common law governing the contaminated soil or groundwater in the right-of-way. Should the City convey, vacate or transfer jurisdiction of the right-of-way, Columbus Foods may pursue an action under this Agreement against the successors in interest, other than the City, or any of its departments, or State agency, in a Court of Law.

10. This Agreement is entered into by the City in recognition of laws passed by the General Assembly and regulations adopted by the Board which encourage a tiered-approach to remediating environmental contamination. This Agreement is entered into by the City in the spirit of those laws. Should any provision of this Agreement be determined to exceed the authority of the City, however, this Agreement shall be null and void.
11. This Agreement (including attachments, addendums, and amendments) shall run with the land and be binding upon all assigns and successors in interest to the Columbus Foods of the Site and the right-of-way identified in attachment B.
12. The City will limit access to the Site and rights-of-way as follows:
  - a. Normal access: The City will limit access to the Site and rights-of-way via the City Department of Transportation or its successor agency, by which persons seeking authorization to perform subsurface work in a City right-of-way will be informed of the nature and extent of contamination, and will be informed that they should take appropriate steps to ensure the health and safety of people working at the Site and rights-of-way.
  - b. Emergency Access: The City Board of Underground, City Department of Buildings, and Chicago Fire Department or their successor agencies will be notified of the contamination at this Site, and adjacent rights-of-way and will be provided with all available environmental data regarding the Site and adjacent rights of way. Such information will be provided to utilities in the area.
13. This Agreement shall continue in effect from the date of the Agreement until contaminant concentrations in the soil and groundwater are subsequently reduced through active remediation or through natural attenuation to Tier 1 residential levels as approved by the Illinois EPA and Board regulations, such that the right-of-way identified in Attachment B is demonstrated to be suitable for unrestricted use and there is no longer a need for this Agreement, and the Illinois EPA has, upon written request to the Illinois EPA and notice to the City, amended the "No Further Remediation" determination for the Site to reflect unencumbered future use of that right-of-way.
14. Written notice and other communications relating to this agreement directed to the City shall be sent to: Commissioner, Department of Environment, 30 North LaSalle Street, 25<sup>th</sup> Floor, Chicago, IL 60602.
15. Written notice and other communications relating to this agreement directed to the Columbus Foods shall be sent to: Columbus Foods, 730 North Albany Street, Chicago, IL 60612.

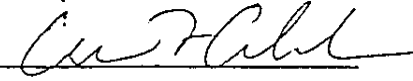
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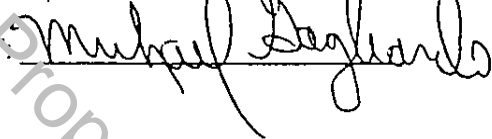
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IN WITNESS WHEREOF, the City of Chicago has caused this Agreement to be signed by its duly authorized representative:

BY:  Date: 3/16/00

IN WITNESS WHEREOF, Columbus Foods Company, Inc. has caused this Agreement to be signed by its duly authorized representative:

BY:  Date: 3/16/2000

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00214.5702

## EXHIBIT A

### PARCEL 1

LOTS 34 TO 42 AND THE SOUTHWESTERLY  $\frac{1}{2}$  OF THE NORTHWESTERLY-SOUTHEASTERLY 16 FOOT WIDE VACATED ALLEY LYING NORTHEASTERLY OF AND ADJOINING LOTS 34 AND 35 AND THE NORTHEASTERLY LINE OF LOT 35 EXTENDED EASTERLY TO THE CENTER LINE OF THE NORTH-SOUTH 16 FOOT WIDE ALLEY AND ALSO THE WEST  $\frac{1}{2}$  OF THE NORTH-SOUTH 16 FOOT WIDE ALLEY LYING EAST OF AND ADJOINING LOTS 35 TO 42, LYING SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF LOT 35 EXTENDED EASTERLY AND LYING NORTH OF THE SOUTHWESTERLY LINE OF LOT 42 EXTENDED EASTERLY IN STARR, GILLETTE AND WARD'S SUBDIVISION OF LOTS 63, 64 AND 65 (EXCEPT THE RAILROAD) IN McILROY'S SUBDIVISION OF THE WEST  $\frac{1}{2}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 2

LOTS 14 TO 33 AND ALL OF THE EAST WEST VACATED ALLEY LYING NORTH OF AND ADJOINING LOT 25, LYING SOUTH AND SOUTHWESTERLY OF AND ADJOINING LOT 26 AND LYING EASTERLY OF A LINE DRAWN FROM THE NORTHWEST CORNER OF LOT 25 TO THE SOUTHWEST CORNER OF LOT 26.

ALSO

THE NORTHEASTERLY  $\frac{1}{2}$  OF THE NORTHWESTERLY-SOUTHEASTERLY 16 FOOT WIDE VACATED ALLEY LYING SOUTHWESTERLY OF AND ADJOINING LOTS 27 TO 33 AND LYING WESTERLY OF A LINE DRAWN FROM THE NORTHWEST CORNER OF LOT 25 TO THE SOUTHWEST CORNER OF LOT 26

ALSO

THE EAST  $\frac{1}{2}$  OF THE NORTH-SOUTH 16 FOOT WIDE VACATED ALLEY LYING WEST OF AND ADJOINING LOTS 16 TO 25 AND WEST OF A LINE DRAWN FROM THE NORTHWEST CORNER OF LOT 25 TO THE SOUTHWEST CORNER OF LOT 26, LYING SOUTH OF THE CENTER AVENUE OF

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THE NORTHWESTERLY-SOUTHEASTERLY 16 FOOT WIDE ALLEY AND LYING NORTHEASTERLY OF THE SOUTHWESTERLY LINE OF LOT 42 EXTENDED EASTERLY IN STARR, GILLETTE AND WARD'S SUBDIVISION OF LOTS 63, 64 AND 65 (EXCEPT THE RAILROAD) IN McILROY'S SUBDIVISION OF THE WEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS:

847 North Kedzie Avenue  
876 North Troy Street  
Chicago, Illinois 60622

PROPERTY INDEX NUMBERS:

16-01-319-025  
16-01-319-026

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Attachment B

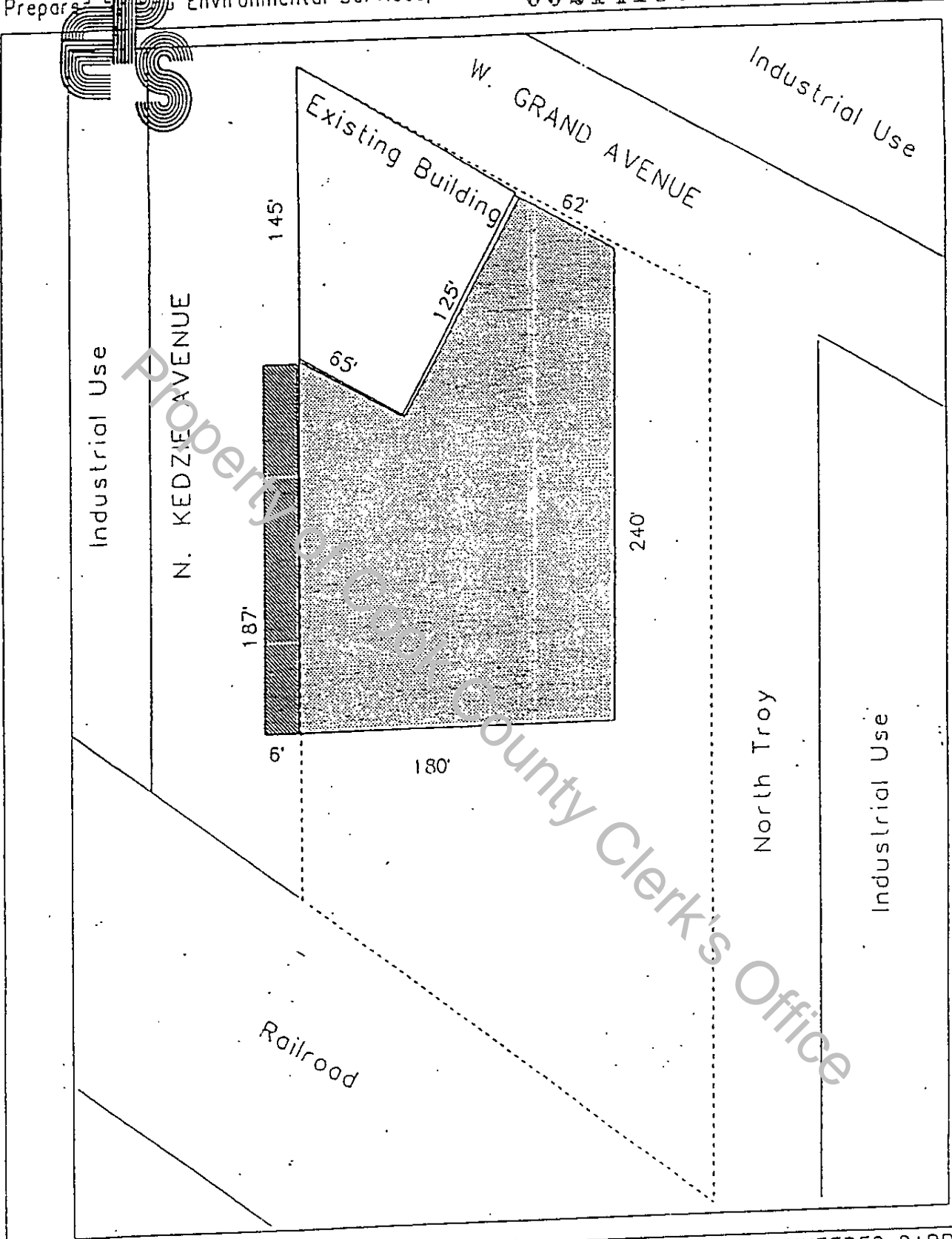
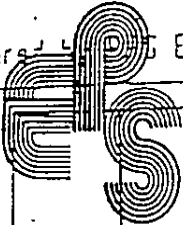
## Metes and Bounds Description of Proposed Barrier


From the southeast corner of West Grand and North Kedzie Avenues, south 145 feet to point of beginning, thence south 187 feet, thence west 6', thence north 187 feet, thence east 6' to point of beginning.


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 City-maintained Engineering Barrier

 Proposed on-Site Engineering Barrier

From northwest corner, south 145' to point of beginning  
 Thence south 187 feet, thence east 180 feet, thence  
 north 240 feet, thence 62' northwesterly parallel to  
 Grand Avenue, thence 125 feet southwesterly, thence 85 feet  
 northwesterly parallel to Grand Avenue to point of beginning.

PROPOSED ENGINEERED BARRIER  
 LIMITED SUBSURFACE INVESTIGATION

SCALE: 1"=approx. 75' | DATE: 9/27/99

3145 West Grand Avenue  
 Chicago, Illinois

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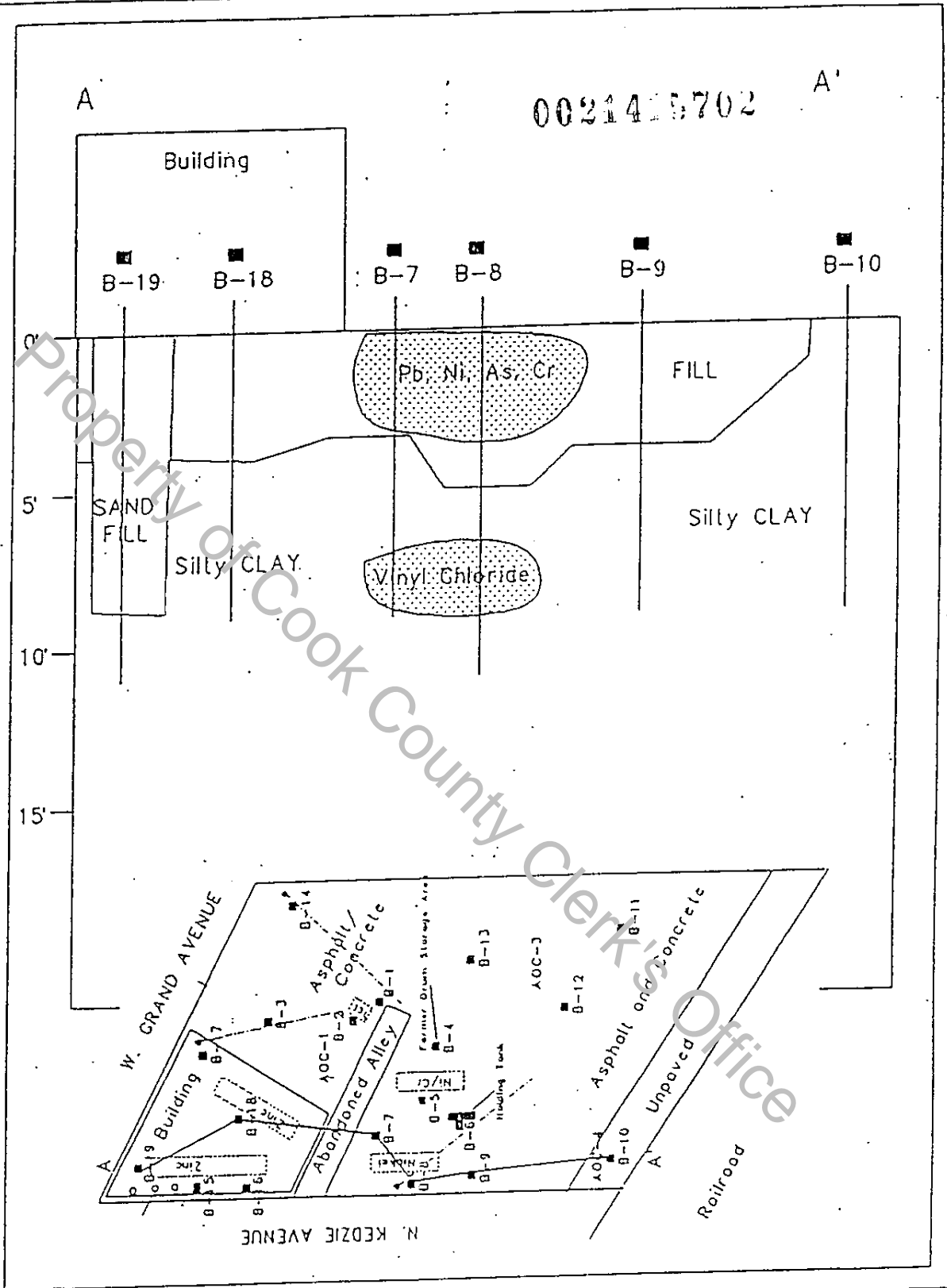
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Prepared by EPS Environmental Services, Inc.

EPS # 1711-119



Cross-Section A-A'  
 LIMITED SUBSURFACE INVESTIGATION  
 SCALE: 1"=approx. 75' | DATE: 11/18/98

-  Affected Area above TACO Tier 1 SROs
-  EPS Soil Boring ID, 1998
- B-1

3145 West Grand Avenue  
 Chicago, Illinois

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SUMMARY OF CONTAMINANTS OF CONCERN AND IEPA TACO  
SOIL REMEDIATION OBJECTIVES  
3145 West Grand Avenue, Chicago, Illinois

IEPA TACO SRO/ Sample ID	Values In ppm					
	Vinyl Chloride	Trichloro-ethene	Nickel	Lead	Arsenic	Chromium
Inhalation Tier 1 Industrial SRO	0.06	8.9	21,000	—	1,200	420
Ingestion Tier 1 Industrial SRO	3	520	41,000	400	3	10,000
Construction Worker	0.08	12	4,100	400	61	4,100
B-1/ 2' and 6'	ND	0.012	19.6	137	85	13.9
B-2/ 3'	ND	ND	27.6	168	ND	19.3
B-3/ 3'	ND	ND	19.9	11.9	ND	9.38
B-4/ 2'	ND	ND	18.5	74.3	ND	15.5
B-5/ 4', 1'	ND	ND	NA	6,680*	ND	156
B-6/ 3'	ND	ND	4,860*	6,700*	49.7*	156
B-7/ 1'	NA	NA	114	162	ND	2,430*
B-7/ 7'	0.806	ND	NA	NA	NA	NA
B-8/ 5', 4'	ND	0.038	415	2,270	ND	46
B-9/ 3', 1'	ND	0.057	969	121	ND	127
B-10/ 6'	ND	ND	NA	NA	NA	NA
B-11/ 7'	NA	NA	NA	NA	NA	NA
B-12/ 6'	NA	NA	NA	NA	NA	NA
B-13/ 4'	ND	0.026	NA	NA	NA	NA
B-14/ 5'	ND	ND	39.4	19	ND	24.4
B-15/ 4'	ND	ND	9.15	52.1	ND	9.63
B-16/ 2', 3'	ND	ND	23	221	ND	14
B-17/ 3', 5'	ND	ND	8.89	137	12.2	6.17
B-18/ 3', 5'	ND	ND	27.5	396	ND	12.9
B-19/ 3', 8'	ND	ND	12	23.6	ND	5.75
B-21 / 11'	ND	ND	15.0	6.20	ND	10.9
B-22 / 11'	ND	ND	12	7.85	ND	10.7

\* Samples also analyzed using TCLP; non hazardous concentrations  
 SRO = IEPA TACO soil remediation objective NA = Not analyzed ND = Not detected  
 BOLD = Denotes contaminant level above TACO Tier 1 ingestion pathway SRO for commercial properties

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AEA  
LABORATORIES, INC.

0021415702

DBA: AMERICAN-ATHENA LABORATORIES

EPS Environmental Services  
7237 W. Devon  
Chicago, IL 60631  
Fax: (773) 792-3091  
Attn: Harvey Pokorny

Lab Number: 11020045  
Field ID: 86.3  
Client Project ID: 3145 W. Grand  
Analysis Method: see below  
Sample Descript: TCLP Extract

Sampled: 10/29/98  
Received: 11/02/98  
Analyzed: 11/06/98  
Reported: 11/24/98

TCLP RCRA METALS: EPA 1311/70006010

Analyte	EPA Method	Detection Limit mg/L (ppm)	Sample Results mg/L (ppm)
Arsenic	1311/3010/6010	0.001	N.D.
Barium	1311/3010/6010	0.011	1.18
Cadmium	1311/3010/6010	0.005	N.D.
Chromium	1311/3010/6010	0.0002	3.26
Lead	1311/3010/6010	0.0004	N.D.
Mercury	1311/7470	0.001	N.D.
Selenium	1311/3010/6010	0.008	N.D.
Silver	1311/3010/6010	0.006	N.D.
Nickel	1311/3010/6010	0.0003	N.D.
Zinc	1311/3010/6010	0.0003	1.05

Analytes reported as N.D. were not present above the stated limit of detection.

AEA Laboratories, Inc.

*Armintha P. Priddy*

Laboratory Director  
Armintha P. Priddy



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AEA  
LABORATORIES, INC.

0031415702

DBA: AMERICAN-ATHENA LABORATORIES

EPS Environmental Services  
7237 W. Devon  
Chicago, IL 60631  
Fax: (773) 792-3091  
Att: Harvey Pokorny

Lab Number: 11020046  
Field ID: 87.1'  
Client Project I.D.: 3145 W. Grand  
Analysis Method: see below  
Sample Descript: TCLP Extract

Sampled: 10/29/98  
Received: 11/02/98  
Analyzed: 11/06/98  
Reported: 11/24/98

TCLP RCRA METALS: EPA 1311/70006010

Analyte	EPA Method	Detection Limit mg/L (ppm)	Sample Results mg/L (ppm)
Arsenic	1311/3010/6010	0.001	N.D.
Barium	1311/3010/6010	0.011	1.12
Cadmium	1311/3010/6010	0.005	N.D.
Chromium	1311/3010/6010	0.0002	N.D.
Lead	1311/3010/6010	0.0004	1.77
Mercury	1311/7470	0.001	N.D.
Selenium	1311/3010/6010	0.008	N.D.
Silver	1311/3010/6010	0.006	N.D.
Nickel	1311/3010/6010	0.0003	1.51
Zinc	1311/3010/6010	0.0003	1.54

Analytes reported as N.D. were not present above the stated limit of detection.

AEA Laboratories, Inc.

*Arminta P. Priddy*

Laboratory Director  
Arminta P. Priddy



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AEA  
LABORATORIES, INC.

00214.0702

DBA: AMERICAN-ATHENA LABORATORIES

EPS Environmental Services  
7237 W. Devon  
Chicago, IL 60631  
Fax: (773) 792-3091  
Att: Harvey Pokorny

Lab Number: 11020043  
Field ID: B5, 1'  
Client Project I.D.: 3145 W. Grand  
Analysis Method: see below  
Sample Descript: TCLP Extract

Sampled: 10/29/98  
Received: 11/02/98  
Analyzed: 11/06/98  
Reported: 11/24/98

TCLP RCRA METALS: EPA 1311/70006010

Analyte	EPA Method	Detection Limit mg/L (ppm)	Sample Results mg/L (ppm)
Arsenic	1311/3010/6010	0.001	N.D.
Barium	1311/3010/6010	0.011	0.611
Cadmium	1311/3010/6010	0.005	0.044
Chromium	1311/3010/6010	0.0002	0.034
Lead	1311/3010/6010	0.0004	1.37
Mercury	1311/7470	0.001	N.D.
Selenium	1311/3010/6010	0.008	N.D.
Silver	1311/3010/6010	0.006	N.D.
Nickel	1311/3010/6010	0.0003	N.D.
Zinc	1311/3010/6010	0.0003	1.53

Analytes reported as N.D. were not present above the stated limit of detection.

AEA Laboratories, Inc.

*Arminta P. Priddy*

Laboratory Director  
Arminta P. Priddy



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## 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

0021415702

(217) 782-6761

December 9, 2002

CERTIFIED MAIL

7002 2030 0001 1873 6589

Ms Paulette Gagliardo  
Columbus Foods Company  
800 North Albany Street  
Chicago, Illinois 60622

Re: 0316005762 - Cook County  
Chicago/Columbus Foods Company  
Site Remediation/Technical Reports File

Dear Ms Gagliardo:

The *Contaminated Soil Disposal and Engineering Barrier* Document (July 30, 2002/Log#02-3029), as prepared by EPS Environmental Services, Inc. for the Columbus Foods Company property, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA") and demonstrates that the remedial action was completed in accordance with the *Remedial Action Plan* (July 30, 2002/Log#02-3029).

The Remediation Site, consisting of 4 acres, is located at 3145 West Grand Avenue, Chicago, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form (October 10, 2002/Log#02-4007), is Columbus Foods Company.

This comprehensive No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment and does not require further remediation under the Act if utilized in accordance with the terms of this Letter.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7404 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4073  
ELGIN - 595 South State, Elgin 60123 - (847) 608-3131 • PEORIA - 5414 N. University St., Peoria, IL 61614 - (309) 693-5462  
CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 333-6907 • SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892  
COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120 • MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

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## Conditions and Terms of Approval

### Level of Remediation and Land Use Limitations

- 1) The contaminants of concern that remain at the areas described in the attached Site Remediation Program Environmental Notice and as shown on the attached Site Base Map of this Letter are:

<u>Location</u>	<u>CAS Number</u>	<u>Chemical Name</u>
Engineered Barrier	7440-38-2	Arsenic
	7440-47-3	Chromium
	7439-92-1	Lead
	7440-02-0	Nickel
	205-99-2	Benzo(b)flouranthene
	75-01-4	Vinyl Chloride

- 2) The Remediation Site is restricted to Industrial/Commercial land use.
- 3) The land use specified in this Letter may be revised if:
- Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
  - 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) The implementation and maintenance of the following controls are required as part of the approval of the remediation objectives for this Remediation Site.

#### Preventive Controls:

- 5) At a minimum, a safety plan should be developed to address possible worker exposure in the event that any future excavation and construction activities may occur within the contaminated soil beneath the engineered barrier. The 42,760 square feet concrete barrier as shown in the Site Base Map must remain over the contaminated soils. Any excavation within the contaminated soil will require implementation of a safety plan consistent with NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, OSHA regulations (particularly in 29 CFR 1910 and 1926), state and local regulations, and other USEPA guidance. Soil excavated below the concrete engineered barrier must be returned to the same depth from which it was excavated or properly managed or disposed in accordance with applicable state and federal regulations.

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Engineering Controls:

- 6) The concrete cap barrier, as described above and as shown in the attached Site Base Map, must remain over the contaminated soils. This engineered barrier is identified as follows: From the northwestern corner of the property (the southeast corner of West Grand Avenue and North Kedzie Avenue) proceed south 145 feet along the property boundary and the west wall of the existing building to the point of beginning (the northwest corner of the barrier and the southwestern corner of the existing building), continue south 187 feet to the southwest corner of the barrier, turn left 90° degrees and proceed east 80 feet to the southeast corner of the barrier, turn left 90° and proceed north 240 feet to the northeast corner of the barrier (the property boundary with West Grand Avenue), turn left and proceed in a westerly by northerly direction along West Grand Avenue and the property boundary 62 feet to the northeastern corner of the afore mentioned existing building, turn left 90° degrees in a southerly direction and proceed 125 feet along the eastern wall of the building to the southern corner of the building, turn right 90° degrees and proceed 65 feet to the point of beginning, the southwestern corner of the building. This concrete cap barrier must be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.

Institutional Controls:

- 7) The City of Chicago agrees through the use of the attached Tiered Approach To Corrective Action Right-of-Way Agreement, Site P21-16-01-319-025,026 (Highway Authority Agreement) entered into on March 16, 2000 with the Columbus Foods Company and pursuant to Municipal Code of the City of Chicago, Section 2-30-030, to allow the area of contaminated soil described as follows to remain beneath its highway right-of-way: From the northwestern corner of the property (the southeast corner of West Grand Avenue and North Kedzie Avenue) proceed south 145 feet along the property boundary and the west wall of the existing building to the point of beginning (the northeast corner of the engineered barrier and the southwestern corner of the existing building), continue south 187 feet to the southeast corner of the engineered barrier, turn right 90° degrees and proceed west 6 feet to the southwest corner of the engineered barrier, turn right 90° and proceed north 187 feet to the northwest corner of the engineered barrier, turn right 90° degrees and proceed 6 feet back to the point of beginning. This Highway Authority Agreement states that the City of Chicago will maintain an engineered barrier over the above described area of contaminated soil.
- 8) Section 11-8-390 of the Municipal Code of Chicago (Potable Water Wells), effectively prohibits the installation and the use of potable water supply wells and is an acceptable institutional control under the following conditions:
- a) The Remediation Applicant shall provide written notification to the City of Chicago and to owner(s) of all properties under which groundwater contamination attributable to the Remediation Site exceeds the objectives approved by the Illinois EPA. The notification shall include:
    - i) The name and address of the local unit of government;
    - ii) The citation of Section 11-8-390

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- iii) A description of the property for which the owner is being sent notice by adequate legal description or by reference to a plat showing the boundaries;
  - iv) A statement that the ordinance restricting the groundwater use has been used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
  - v) A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
  - vi) A statement as to where more information may be obtained regarding the ordinance.
- b) Written proof of this notification shall be submitted to the Illinois EPA within forty-five (45) days from the date of this Letter to.

Robert E. O'Hara  
Illinois Environmental Protection Agency  
Bureau of Land/RPMS  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

- c) The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:
- i) Modification of the referenced ordinance to allow potable uses of groundwater;
  - ii) Approval of a site-specific request, such as a variance, to allow use of groundwater at the Remediation Site or at the affected properties;
  - iii) Failure to provide written proof to the Illinois EPA within forty-five (45) days from the date of this Letter of written notification to the City of Chicago and affected property owner(s) of the intent to use Section 11-8-390 of the Municipal Code of Chicago (Potable Water Wells), as an institutional control at the Remediation Site; and
  - iv) Violation of the terms and conditions of this No Further Remediation letter.

Other Terms

- 9) Where an institutional control is used to assure long-term protection of human health (as identified under Paragraphs 7 and 8 of this Letter), the Remediation Applicant must record a copy of this legal mechanism (e.g., ordinance adopted and administered by a unit of local government; or agreement between a property owner and a highway authority) along with this Letter.

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- 10) Where the Remediation Applicant is not the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program* Form. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 11) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:
- Illinois Environmental Protection Agency  
Attn: Freedom of Information Act Officer  
Bureau of Land-#24  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276
- 12) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58.10(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current title holder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the voidance of the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
- a) Any violation of institutional controls or the designated 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 Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
  - d) The failure to comply with the recording requirements for this Letter;
  - e) Obtaining the Letter by fraud or misrepresentation;
  - 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;
  - g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
  - h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.

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13) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:

- a) Columbus Foods Company;
- b) The owner and operator of the Remediation Site;
- c) Any parent corporation or subsidiary of the owner of the Remediation Site;
- d) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
- e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remediation Site;
- f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;
- g) Any successor-in-interest of the owner of the Remediation Site;
- h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
- i) Any heir or devisee of the owner of the Remediation Site;
- j) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-in-interest thereto; or
- k) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.

14) This letter, including all attachments, must be recorded as a single instrument within forty-five (45) days of receipt with the Office of the Recorder of County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Cook County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Columbus Foods Company property.

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15) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Cook County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

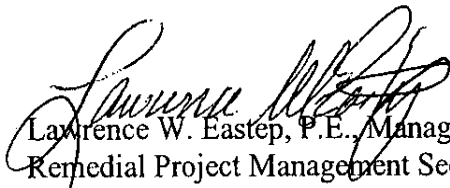
Robert E. O'Hara  
Illinois Environmental Protection Agency  
Bureau of Land/RPMS  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

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16) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with the billing statement.

If you have any questions regarding this correspondence, you may contact the Illinois EPA project manager, Jim Mergen at 217-524-1659.

Sincerely,

  
Lawrence W. Eastep, P.E., Manager  
Remedial Project Management Section  
Division of Remediation Management  
Bureau of Land

Attachments(4): Illinois EPA Site Remediation Program Environmental Notice  
Site Base Map  
Property Owner Certification of No Further Remediation Letter under the  
Site Remediation Program Form  
Tiered Approach To Corrective Action Right-of-Way Agreement, Site  
PIN 16-01-319-025,026 (Highway Authority Agreement)

cc: Nicholas Cuzzone, P.E., Senior Engineer, EPS Environmental Services, Inc., 7227 West  
Devon Avenue, Chicago, Illinois 60631

Commissioner  
Chicago Department of Environment  
25<sup>th</sup> Floor  
30 North LaSalle Street  
Chicago, Illinois 60602-2575

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bcc: Records Unit  
Bob O'Hara  
Ginger Miller

Re: 0316005762 – Cook County  
Chicago/Columbus Foods Company  
Site Remediation/Technical Reports File

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