

# UNOFFICIAL COPY



Eugene "Gene" Moore Fee: \$54.50  
Cook County Recorder of Deeds  
Date: 08/04/2003 11:47 AM Pg: 1 of 16

**PREPARED BY:**

Name: Shell Oil Products US

Address: 1001 W. Jackson Blvd.  
Chicago, IL 60607

**RETURN TO:**

Name: Shell Oil Products US

Address: 603 Dohl Rd, Suite 103  
Naperville, IL 60563

**(THE ABOVE SPACE FOR RECORDER'S OFFICE)**

Legal Description or Reference to a Plat Showing the Boundaries: see Attachment A  
Common Address: 1001 W. Jackson Blvd., Chicago, Illinois  
Real Estate Tax Index/Parcel Index Number: 17-17-224-032-0000  
Site Owner: Shell Oil Products US

Property of Cook County Clerk's Office

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Site PIN 17-17-224-032-0000

## TIERED APPROACH TO CORRECTIVE ACTION RIGHT-OF-WAY AGREEMENT

This Agreement is entered into this 27<sup>th</sup> day of OCTOBER, 2001 pursuant to the Environmental Protection Act ("Act"), 35 IL Admin. Code Section 742.1020 and the Municipal Code of the City of Chicago Section 2-30-030 ("Code") by and among Equilon Enterprises, LLC. ("Owner"), and the City of Chicago ("City"), 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 Owner. The duly authorized representative of Owner have signed this Agreement, and this Agreement is binding upon them, their successors and assigns.
2. Owner stipulates:
  - a. Owner is pursuing corrective action at a Site and in the right-of-way adjacent to the Site located at 1001 West Jackson Blvd., Chicago, Illinois ("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 known and probable area(s) of contaminant impacted soil and groundwater 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 a confirmed release of petroleum from an underground storage tank at the Site.
  - e. The Illinois Emergency Management Agency has assigned incident number 20001472 to the Site.
  - f. Owner 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.

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- g. Under 35 Ill. Admin. Code 742.1020, the use of risk-based, site-specific remediation objectives in the right-of-way require this Agreement, in lieu of active remediation of the contaminant-impacted soil and 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 Owner at its expense along with the Illinois EPA's "No Further Remediation" determination with the Cook County Recorder of Deeds. The Owner 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 Owner 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.
- 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 1 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 1 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. DOE.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 Owner agrees to reimburse the City for maintenance activities requested by Owner. 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.

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- 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 1 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 Owner 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 Owner 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 costs, and unless there is an urgent reason otherwise, the City shall first give Owner thirty days notice and an opportunity to remove or dispose of contaminated soil and/or groundwater, at Owner's cost, to the extent necessary for the City's work. Such removal and disposal shall be in accordance with all applicable laws and regulations. Failure to give this opportunity to Owner shall not be a defense to a claim for reimbursement or that the work should not have been done. 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 Owner 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 Owner 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 Owner, or its successor(s) in interest, may be grounds for voidance 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. Owner 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, Owner's 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 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 Owner against the City or them and Owner hereby releases the City, its agents, contractors, employees and its successors in

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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 that right-of-way, Owner 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 remedying 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 Owner of the Site.
12. The City will limit access to the Site and rights-of-way as follows:
  1. 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 the 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.
  2. Emergency Access: The City Board of Underground Buildings, the City Department of Buildings, and the Chicago Fire Department or their successor agencies will be notified of the contamination at this Site and adjacent right-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.

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- 14. Written notice and other communications relating to this agreement directed to the City shall be sent to:

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

- 15. Written notice and other communications relating to this agreement directed to Owner shall be sent to:

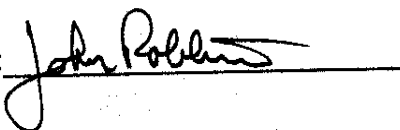
Equiva Services, LLC.  
 Environmental Engineering  
 603 Diehl Road, Suite 103  
 Naperville, IL 60563

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

BY:   
 William F. Abolt

Date: 10/25/07

**IN WITNESS WHEREOF**, Owner, Equilon Enterprises, LLC. has caused this Agreement to be signed by its duly authorized representative:

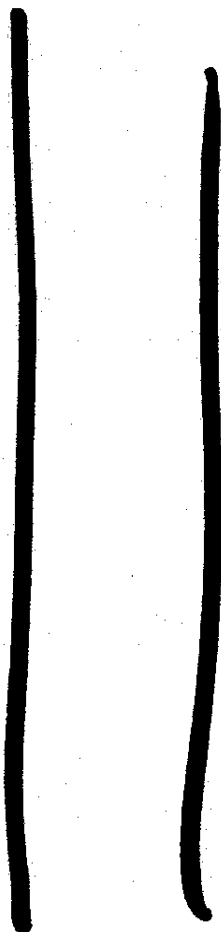
BY: 

Date: 9/19/01

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**ATTACHMENT A**



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Legal Description for land situated at S/W/C Jackson and Morgan in Chicago, County of Cook, State of Illinois 60607:

Lots 1, 2, and 3 in Egans Subdivision of Block 25 in Canal Trustees subdivision of the West  $\frac{1}{2}$  and the West  $\frac{1}{2}$  of the North East  $\frac{1}{4}$  of Section 17, Township 39 North, Range 14 East of the Third Principal Meridian of Block 16 in Duncan's Addition to Chicago in Cook County, Illinois

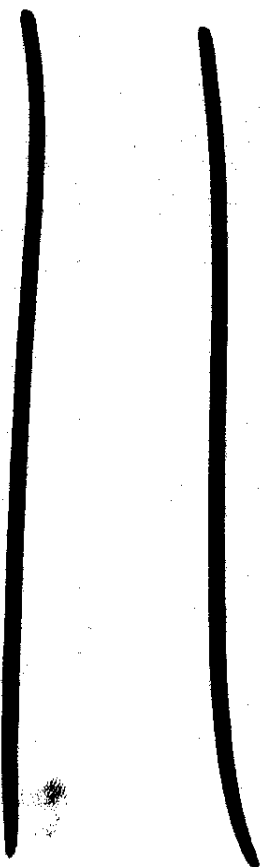
Property of Cook County Clerk's Office



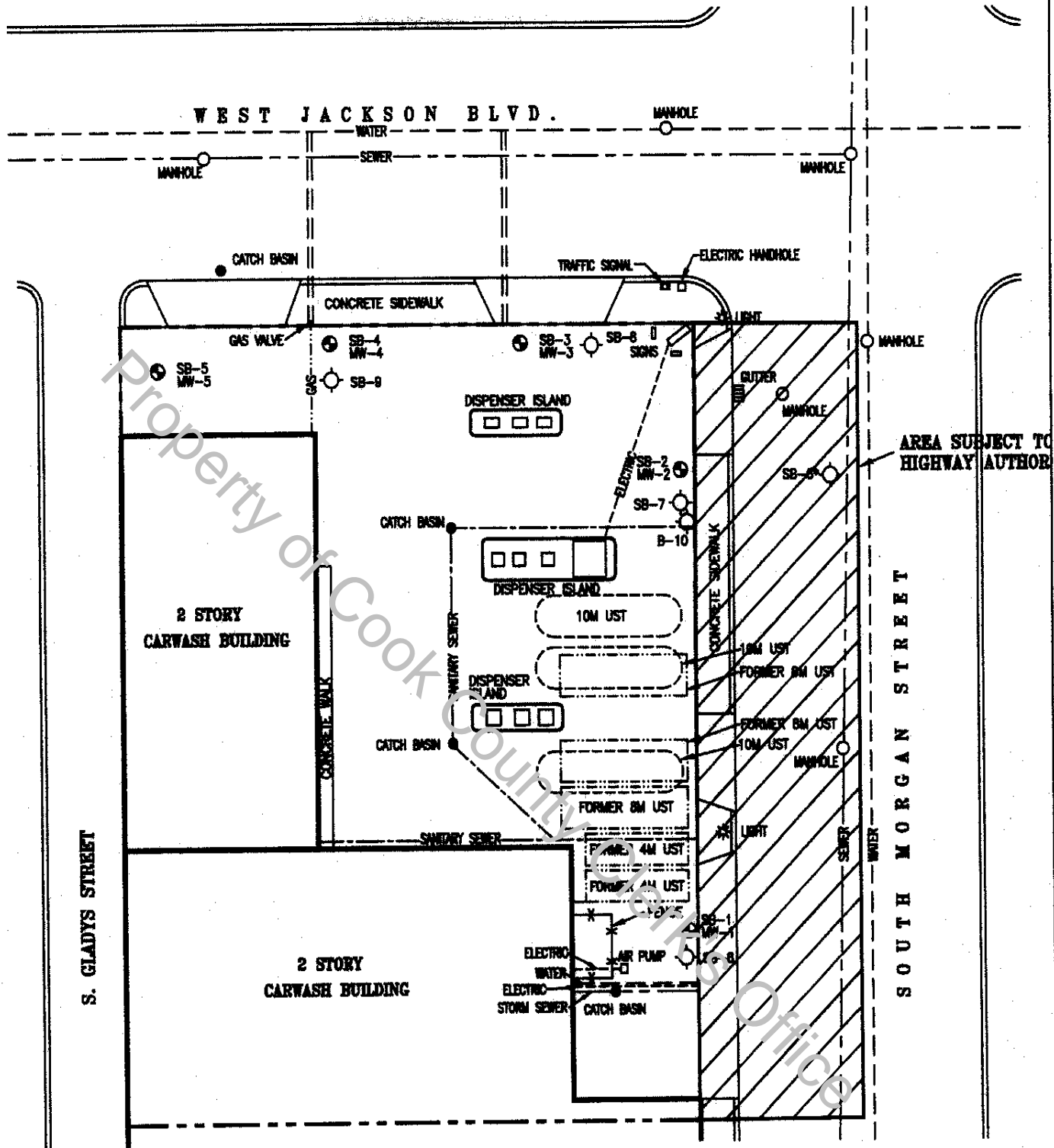
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Property of Cook County Clerk's Office

**ATTACHMENT B**

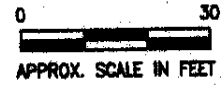


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**LEGEND**

- PROPERTY BOUNDARY
- ⊕ MONITORING WELL LOCATION
- ⊙ SOIL BORING LOCATION



1989A1

DRAWN BY:	R. WALSHVELD
DATE:	8/20/01
REVISED:	-
PROJECT:	121488

AREA SUBJECT TO  
HIGHWAY AUTHORITY  
AGREEMENT



**SHELL SERVICE STATION**  
SAP #136967  
1001 W. JACKSON/MORGAN  
CHICAGO, COOK CO., ILLINOIS



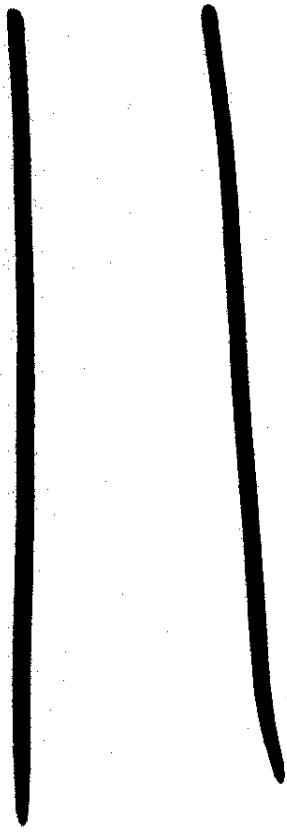
Handex

OF ILLINOIS

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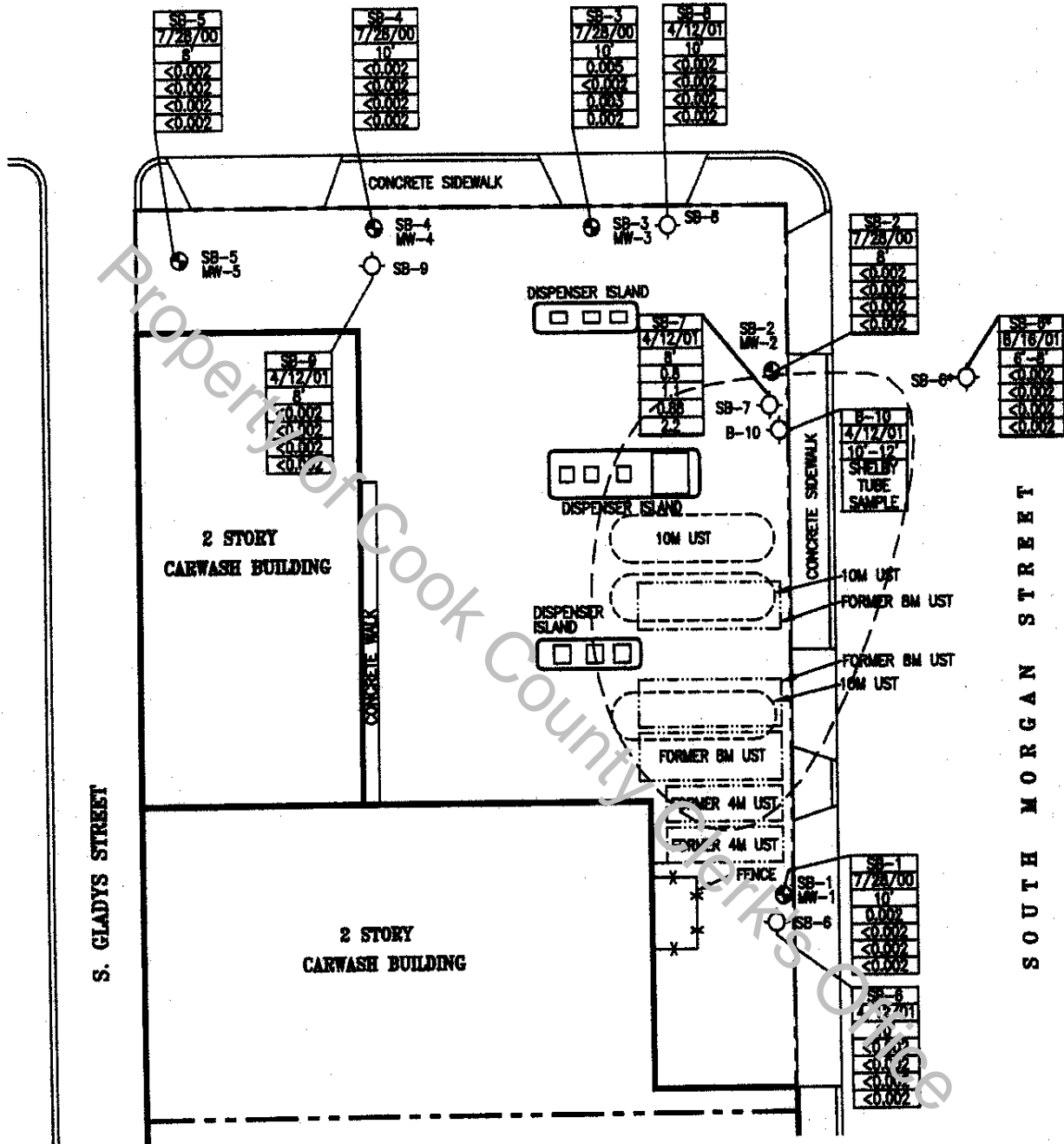
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**ATTACHMENT C**



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WEST JACKSON BLVD.

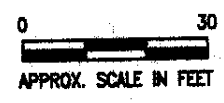


**LEGEND**

- PROPERTY BOUNDARY
- ⊕ MONITORING WELL LOCATION
- ⊙ SOIL BORING LOCATION
- - - SOIL CONTAMINANT PLUME

SB-1	7/28/00	10'	0.002	<0.002	<0.002	<0.002
------	---------	-----	-------	--------	--------	--------

<0.002 LESS THAN LABORATORY REPORTING LIMIT



DRAWN BY: R.WALSHVELO  
 DATE: 8/7/00  
 REVISED: -  
 PROJECT: 121486

**EXTENT OF SOIL CONTAMINANT PLUME MAP**



**SHELL SERVICE STATION**  
 #136967  
 1001 W.JACKSON/MORGAN  
 CHICAGO, COOK CO., ILLINOIS



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**ATTACHMENT D**



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TABLE 1

**Soil Analytical Results**

Shell Service Station, SAP #136967  
1001 W. Jackson Blvd.  
Chicago, Cook County, Illinois

IEMA #20001472  
LPC #0316286266

Tier 1 Exposure Routes With Remediation Objectives				Benzene (mg/kg)	Toluene (mg/kg)	Ethylbenzene (mg/kg)	Xylene(s) (mg/kg)
<b>Ingestion</b>				22	16,000	7,800	160,000
<b>Inhalation</b>				0.8	650	400	410
<b>SCGIER - Class II Groundwater</b>				0.17	29	19	150
Soil Borehole	Location	Date	Depth (ft)				
SB-1		7/28/00	10	0.002	<0.002	<0.002	<0.002
SB-2		7/28/00	8	<0.002	<0.002	<0.002	<0.002
SB-3		7/28/00	10	0.005	<0.002	0.003	0.002
SB-4		7/28/00	10	<0.002	<0.002	<0.002	<0.002
SB-5		7/28/00	8	<0.002	<0.002	<0.002	<0.002
SB-6		4/12/01	10	<0.002	<0.002	<0.002	<0.002
SB-7		4/12/01	8	<b>0.8</b>	<b>1.1</b>	<b>0.88</b>	<b>2.2</b>
SB-8		4/12/01	10	<0.002	<0.002	<0.002	<0.002
SB-9		4/12/01	8	<0.002	<0.002	<0.002	<0.002
SB-6*		8/16/01	6-8'	<0.002	<0.002	<0.002	<0.002

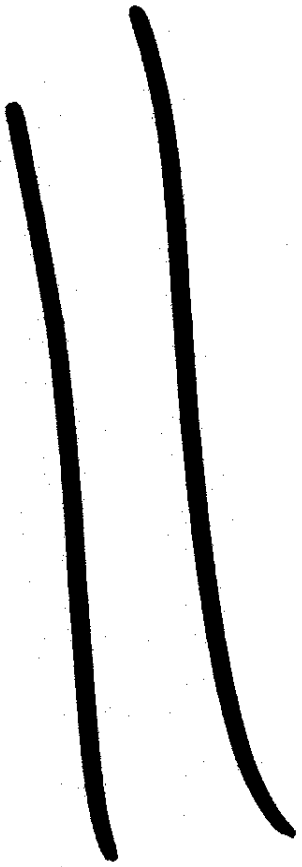
**Notes:**

- 1) mg/kg = milligrams per kilogram
- 2) SCGIER = Soil Component of the Groundwater Ingestion Exposure Route
- 3) ft = Feet
- 4) <0.002 = Not detected above laboratory reporting limit
- 5) Samples were analyzed for benzene, toluene, ethylbenzene, and total xylenes using USEPA Method 5035/8021B.
- 6) **Bold** = Exceeds Tier 1 SRO for Class II groundwater
- 7) \* = Used to distinguish the SB-8 completed on 4/12/01 and the SB-6 completed on 8/16/01

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**ATTACHMENT E**



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SENT BY:

5- 8- 0 :11:46AM : DEPT OF ENVIRONMENT-

630 527 8174:# 2/ 2



City of Chicago  
Richard M. Daley, Mayor

Department of Environment

William I. Aholt  
Commissioner

Twenty fifth Floor  
30 North LaSalle Street  
Chicago, Illinois 60602 2575  
(312) 744-7666 (Voice)  
(312) 744-6451 (FAX)  
(312) 744-3586 (TTY)

<http://www.ci.chi.il.us>

Permit No. \_\_\_\_\_ Date \_\_\_\_\_  
Site Address \_\_\_\_\_

## CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT FORM NO. DOE.ROW.01

Notice is hereby given that the site you have requested information on is recorded with the City of Chicago Department of Environment as potentially having environmental contamination on the site and adjacent right-of-way. This environmental contamination could present a threat to human health and safety in connection with work performed at the site, or in the adjacent right-of-way, if proper safeguards are not employed.

A file containing detailed information regarding the aforementioned environmental contamination can be reviewed by contacting the City of Chicago Department of Environment at 30 N. LaSalle St., 25th Floor, Chicago, Illinois, 60602 during normal business hours (8:30 AM - 4:30 PM, Monday through Friday).

Please complete the following:

I have reviewed and understand the documents, maintained by the Department of Environment, regarding environmental contamination of the site and adjacent right-of-way. Further, I will assure that all work at the subject site and adjacent right-of-way will be performed in a manner that is protective of human health and the environment and in compliance with all applicable local, state, and federal laws, rules, and regulations, especially those pertaining to worker safety and waste management.

Signature \_\_\_\_\_  
Name (print) \_\_\_\_\_  
Company \_\_\_\_\_  
Phone No. \_\_\_\_\_

Signed by Department of Environment \_\_\_\_\_  
Date \_\_\_\_\_

Please return this completed form to the City of Chicago Department of Transportation at 30 N. LaSalle St., Room 1101, Chicago, Illinois, 60602 during normal business hours (8:30 AM - 4:30 PM, Monday through Friday).

