

UNOFFICIAL COPY

PREPARED BY:

Name: Shell Oil Products US

Address: 150 West 63rd Street
Chicago, IL 60621



0321627084

Eugene "Gene" Moore Fee: \$62.50

Cook County Recorder of Deeds

Date: 08/04/2003 11:50 AM Pg: 1 of 20

RETURN TO:

Name: Shell Oil Products US

Address: 603 Diehl 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: 150 West 63rd Street, Chicago, Illinois

Real Estate Tax Index/Parcel Index Number: 20-16-423-019-0000

Site Owner: Shell Oil Products US

Property of Cook County Clerk's Office

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Site PIN 20-16-423-019

TIERED APPROACH TO CORRECTIVE ACTION RIGHT-OF-WAY AGREEMENT

This Agreement is entered into this 22nd day of FEBRUARY, 2000 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 representatives 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 150 West 63rd Street in 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 990305 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

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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 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 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 Owner of the Site.
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 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.
 - b. Emergency Access: The City Board of Underground, 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 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.

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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:


Environmental Engineering
 Equilon Enterprises, LLC
 603 Diehl Road, Suite 103
 Naperville, Illinois 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: 2/14/02

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

BY: 
 Lisa Schoedel

Date: 12/20/99

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ATTACHMENT A



UNOFFICIAL COPY**EXHIBIT "A"
COOK COUNTY, ILLINOIS**

4-37

Tract 36, - 150 W 63rd\Wentworth, Chicago, COOK, WIC 212-1544-0708
Tax Parcel # 20-16-423-019

That part of lot 14 in School trustees subdivision of Section 16, Township 38 North, Range 14, East of the Third Principal Meridian, Described as follows: Beginning at the N. E. corner of S. Wentworth Avenue as widened and W. 63rd Street; Thence E. along the N. line of said W. 63rd Street a distance of 235.57 feet to a point 30 feet Southwesterly and measured at right angles from the Center line of Eastwardbound freight track of railroad of the Pittsburgh, Fort Wayne and Chicago Railway Company; Thence Northwesterly forming an interior angle of 36 Degrees with the East described course and parallel with said center line of the Eastwardbound freight track 291.62 feet to said East line of South Wentworth Avenue as widened 171.41 feet to the point of beginning, in Cook County, Illinois together with the tenements and appurtenances thereunto belonging.

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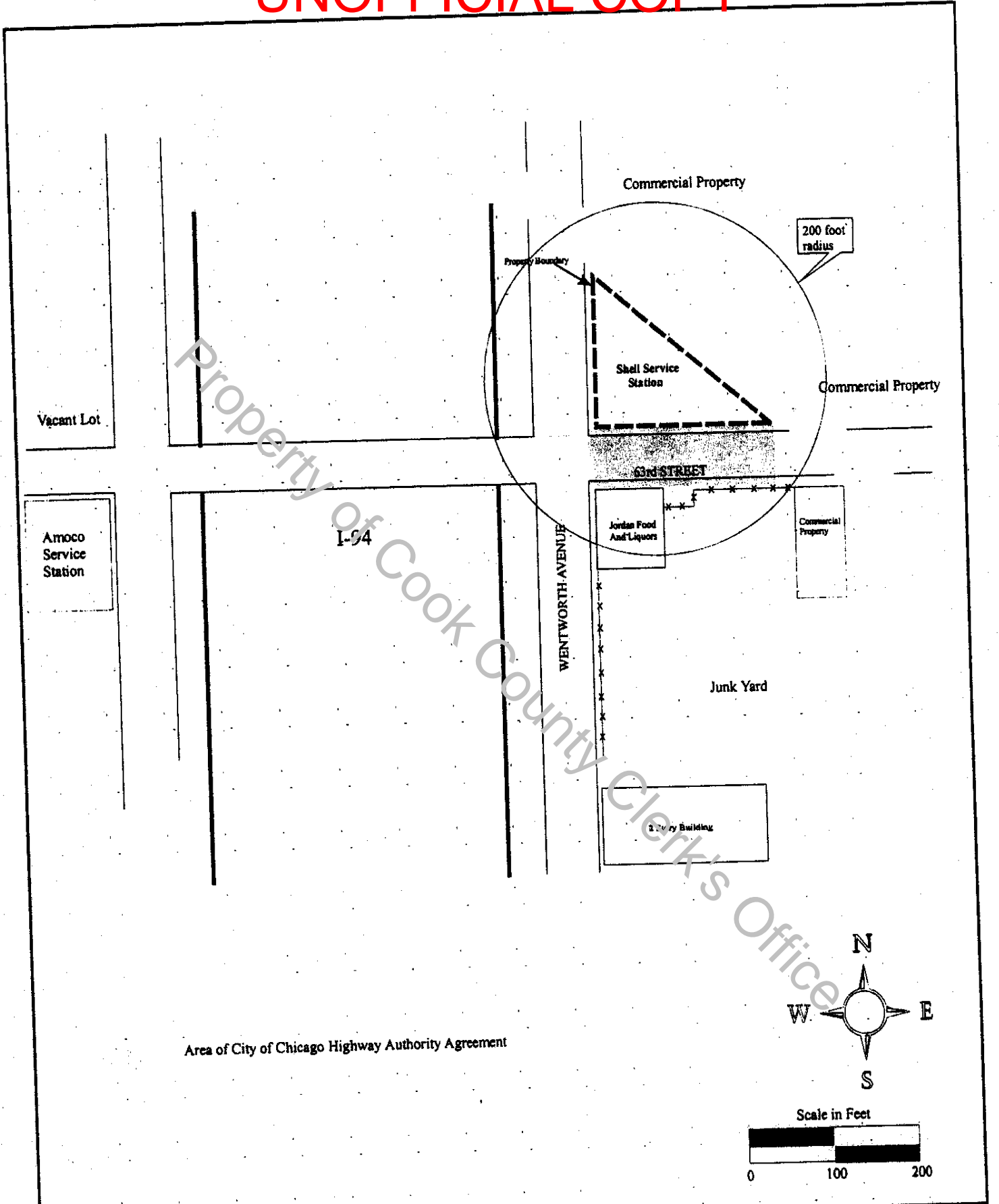
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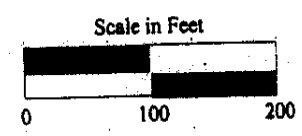
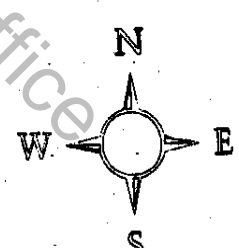
ATTACHMENT B



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Area of City of Chicago Highway Authority Agreement



DRAWN BY: WEC
DATE: 12/24/88
Project No: 188-004-037

Figure 6
Site Map with
Area of Institutional Controls

Shell Service Station
WIC# 212-1544-0708
150 West 63rd Street
Chicago, Illinois



ERS of Illinois, Inc.
 2023 Granart Rd.
 Sugar Grove, IL
 Ph. (830) 556-4380

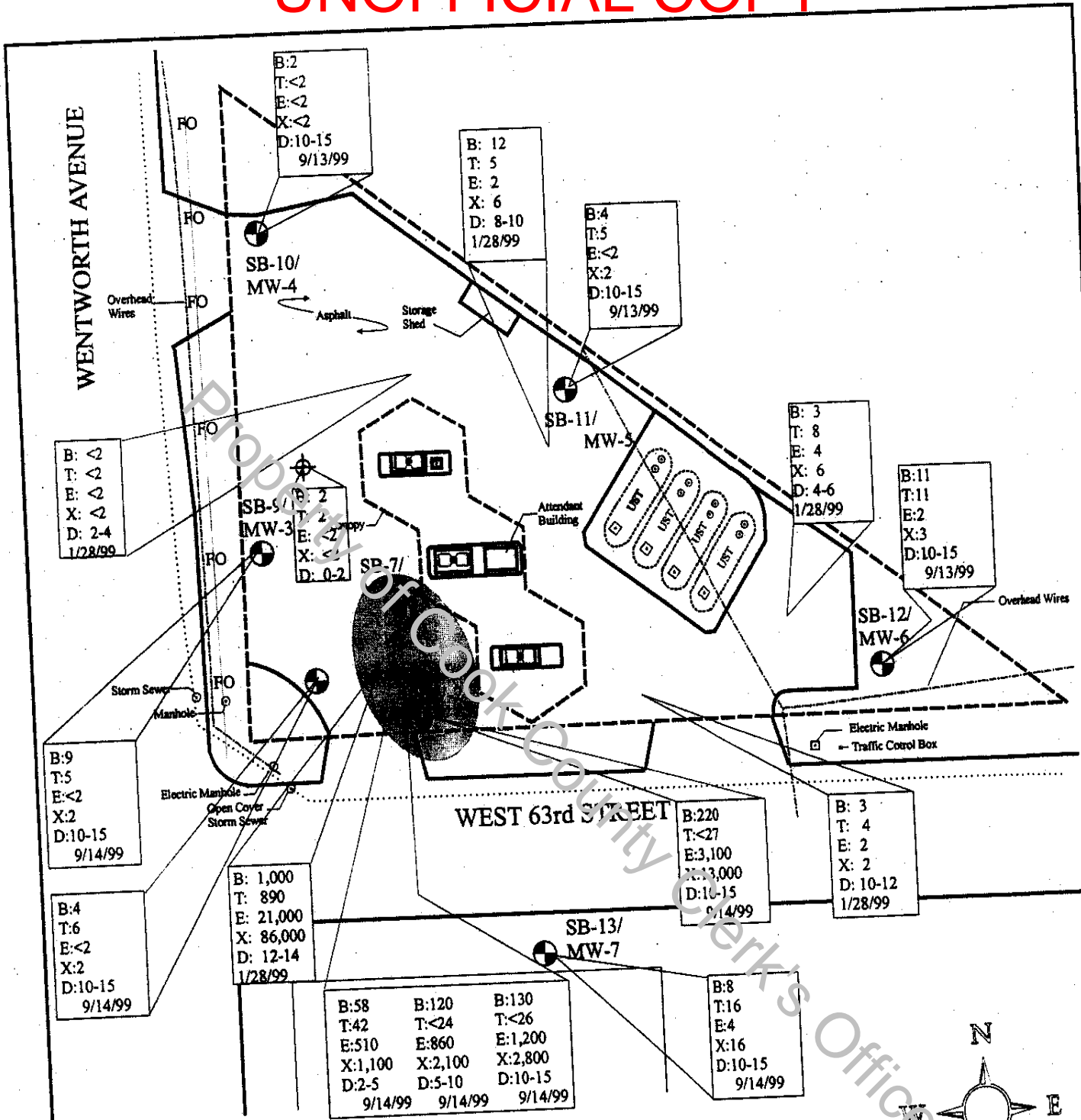
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ATTACHMENT C

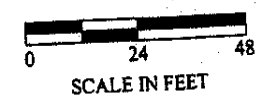
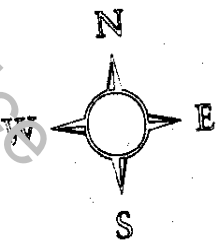


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Legend

	Dispenser Island	BTEX:	Benzene, toluene, ethylbenzene and total xylenes. All results presented in micrograms per kilogram (ug/Kg).
	Underground Storage Tank	D:	Depth sample taken from
	Soil Boring	9/14/99	Date Sample collected
	Monitoring Well		Estimated Extent of Soil Contamination
	Combination Sewer Main		
	Property Line		
	Fiber Optic Line		
	Overhead Electric		



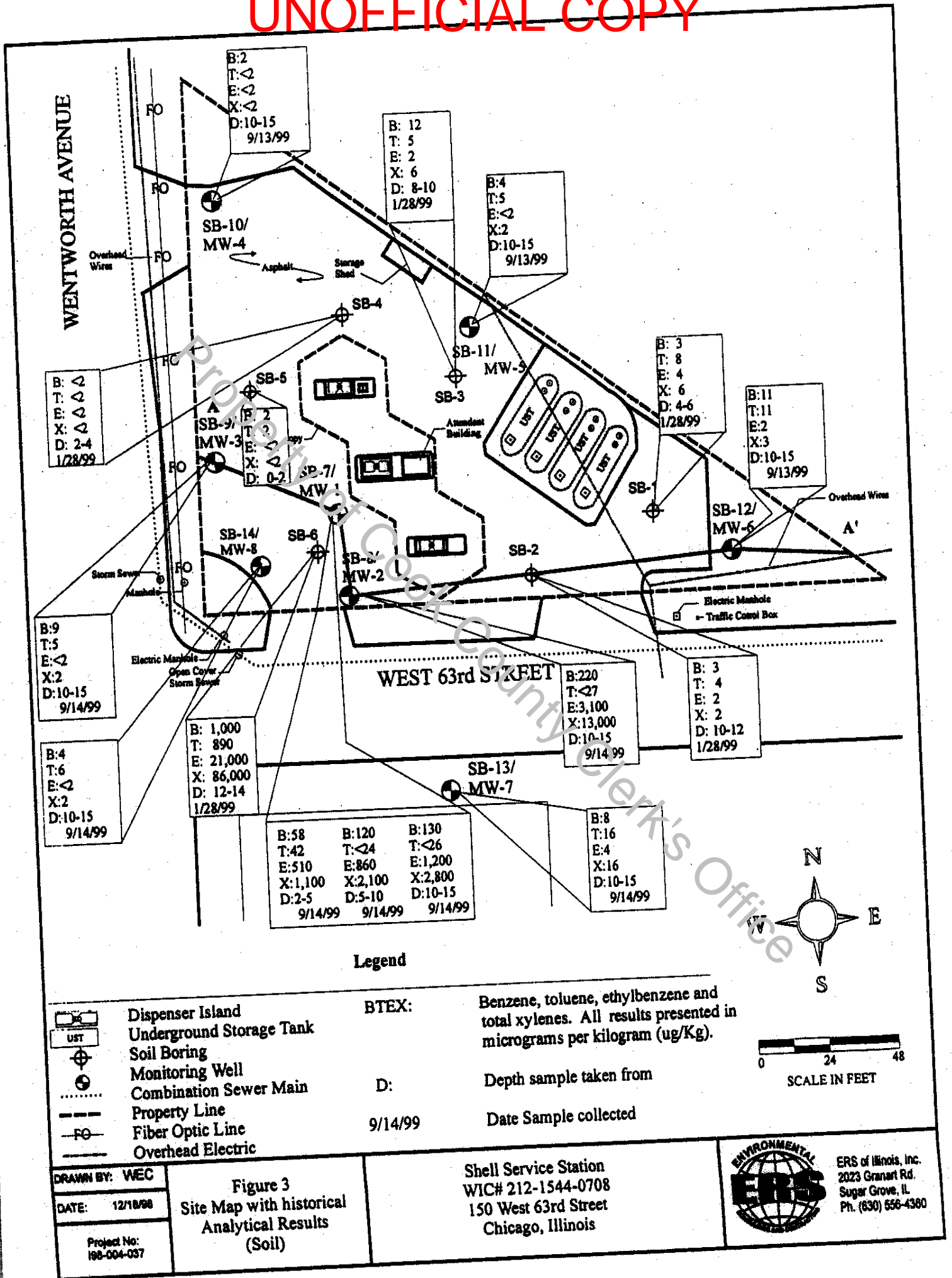
DRAWN BY: WEC
DATE: 12/18/98
Project No: 198-004-037

Figure 1
 Site Map with historical Analytical Results (Soil)

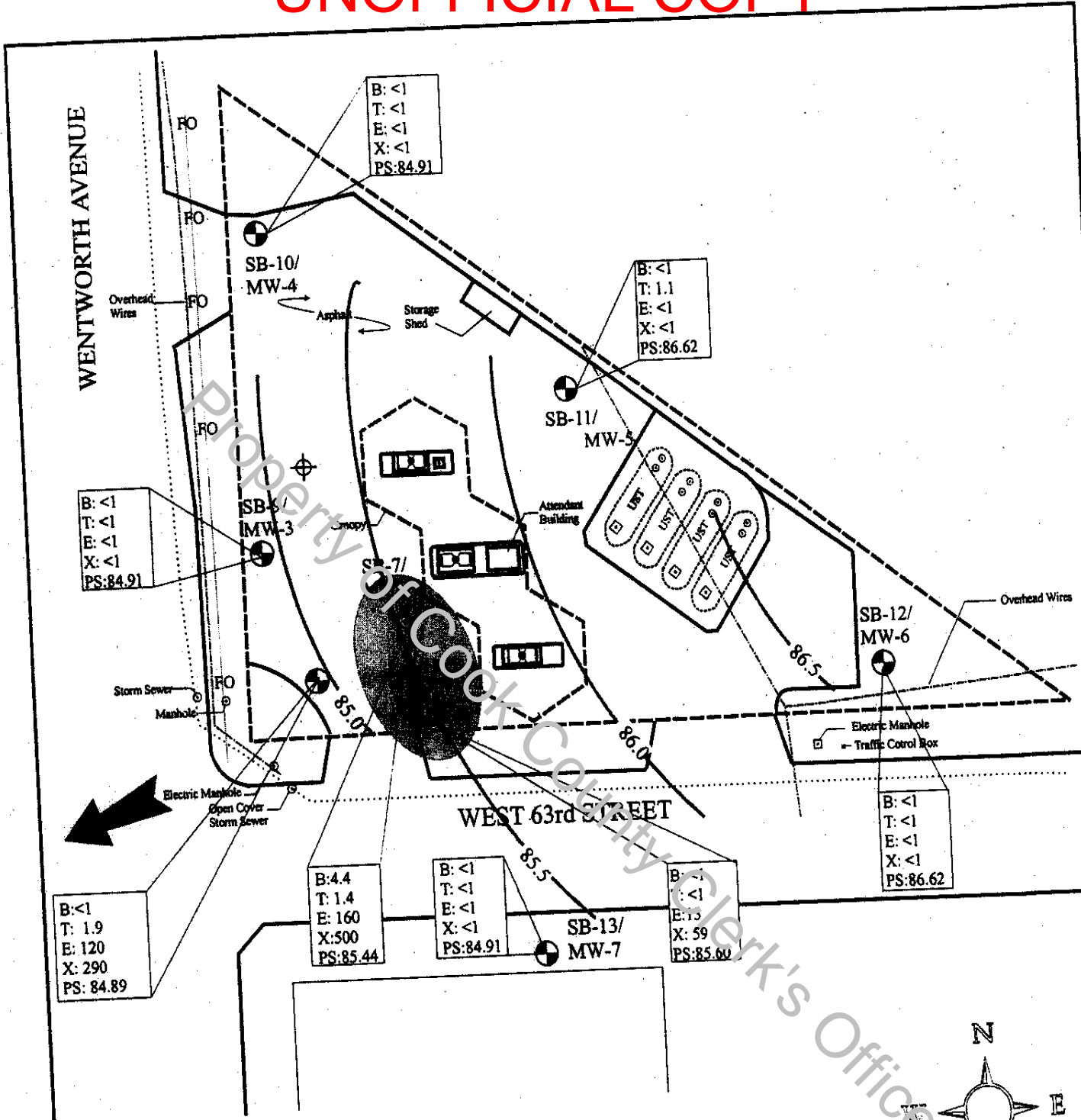
Shell Service Station
 WIC# 212-1544-0708
 150 West 63rd Street
 Chicago, Illinois

ENVIRONMENTAL ERS
 ERS of Illinois, Inc.
 2023 Granart Rd.
 Sugar Grove, IL
 Ph. (630) 556-4380

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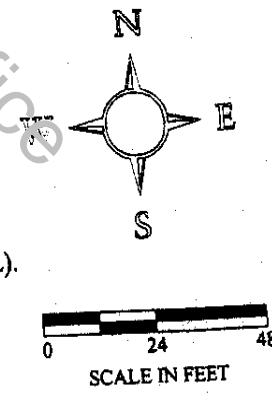


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Legend

- Dispenser Island
- Underground Storage Tank
- Soil Boring
- Monitoring Well
- Combination Sewer Main
- Property Line
- Fiber Optic Line
- Overhead Electric
- BTEX:** Benzene, toluene, ethylbenzene and total xylenes
- PS:** Potentiometric surface elevation
- 85.0 Potentiometric surface contour
- Apparent groundwater flow direction
- Potential Extent of Contamination



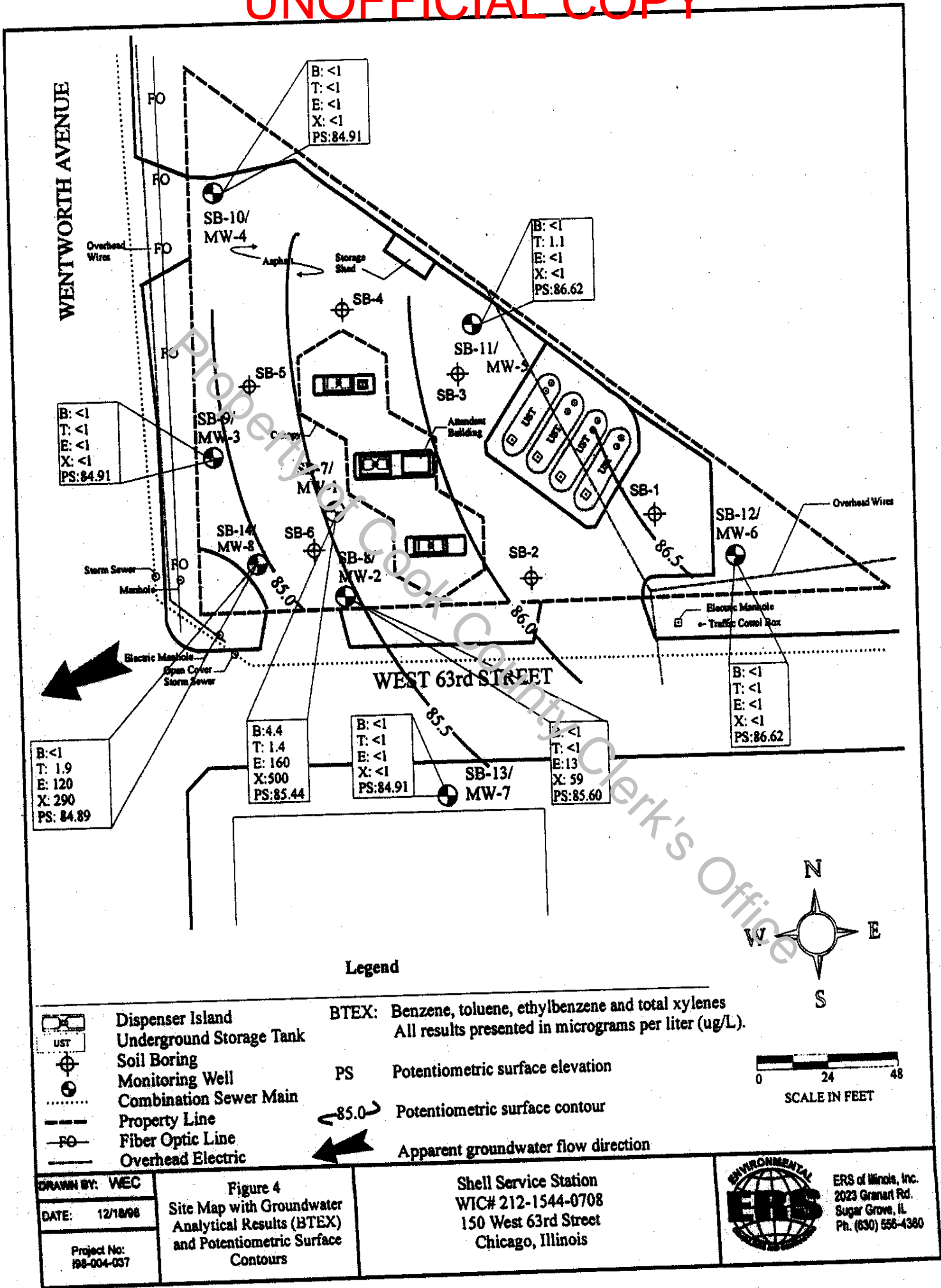
DRAWN BY: WEC
DATE: 12/18/88
Project No: 198-004-037

Figure 2
 Site Map with Groundwater Analytical Results (BTEX) and Potentiometric Surface Contours

Shell Service Station
 WIC# 212-1544-0708
 150 West 63rd Street
 Chicago, Illinois

ERS of Illinois, Inc.
 2023 Granart Rd.
 Sugar Grove, IL
 Ph. (830) 556-4360

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ATTACHMENT D



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Table 1: Soil Laboratory Analytical Results
Shell Service Station
150 West 63rd Street
Chicago, Illinois
WIC#: 212-1544-0708

Well/boring Name	Sample Depth (ft)	Sample Date	Benzene (ug/kg)	Toluene (ug/kg)	Ethylbenzene (ug/kg)	Xylene (ug/kg)
SB-1	4-6	1/28/1999	3	8	4	6
SB-2	10-12	1/28/1999	3	4	2	2
SB-3	8-10	1/28/1999	12	5	2	6
SB-4	2-4	1/28/1999	<2	<2	<2	<2
SB-5	0-2	1/28/1999	2	2	<2	<2
SB-6	12-14	1/28/1999	1,000	890	21,000	86,000
SB-7/MW-1	2-5	9/14/1999	58	42	510	1,100
SB-7/MW-1	5-10	9/14/1999	210	<24	860	2,100
SB-7/MW-1	10-15	9/14/1999	130	<26	1,200	2,800
SB-8/MW-2	10-15	9/14/1999	220	<27	3,100	13,000
SB-9/MW-3	10-15	9/13/1999	9	5	<2	2
SB-10/MW-4	10-15	9/13/1999	2	<2	<2	<2
SB-11/MW-5	10-15	9/13/1999	4	5	<2	2
SB-12/MW-6	10-15	9/13/1999	11	11	2	3
SB-13/MW-7	10-15	9/14/1999	8	16	4	16
SB-14/MW-8	10-15	9/14/1999	4	6	<2	2
Tier 1 Clean-Up Objectives for Soil						
Class I Groundwater			30	12,000	13,000	150,000
Class II Groundwater			170	29,000	19,000	150,000
Ingestion			22,000	16,000,000	7,800,000	160,000,000
Inhalation			800	650,000	400,000	410,000

Note:

ug/kg = micrograms per kilogram

Benzene, toluene, ethylbenzene and total xylenes by SW 846 Method 5021

Sample collection by SW 846 Method 5035

<MDL = Not detected above the method detection limit (MDL) indicated

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Table 2: Groundwater Hydrocarbon Concentration Data
Shell Service Station
150 West 63rd Street
Chicago, Illinois
WIC#: 212-1544-0708

Sample Name	Date	ToC (ft)	Measured W Depth (ft)	Corrected* GW Elev (ft)	SP (ft)	B (ug/L)	T (ug/L)	E (ug/L)	X (ug/L)
SB-1	1/28/1999	NSr	14.5	NSr	-	<1	<1	<1	<1
SB-2	1/28/1999	NSr	13.0	NSr	-	<1	<1	<1	<1
MW-1	10/17/1999	98.85	13.41	85.44	-	4	1	160	500
MW-2	10/17/1999	98.53	12.93	85.60	-	<1	<1	13	59
MW-3	10/17/1999	98.35	13.44	84.91	-	<1	<1	<1	<1
MW-4	10/17/1999	97.20	12.12	85.08	-	<1	<1	<1	<1
MW-5	10/17/1999	99.69	13.36	86.33	-	<1	1	<1	<1
MW-6	10/17/1999	99.35	12.73	86.62	-	<1	<1	<1	<1
MW-7	10/17/1999	98.32	13.20	85.32	-	<1	<1	<1	<1
MW-8	10/17/1999	98.52	13.63	84.89	-	<1	2	120	290
Tier I Clean-Up Objectives for Groundwater									
Class I Groundwater						5	1,000	700	10,000
Class II Groundwater						25	2,500	1,000	10,000

Note:

1. ToC = Surveyed Top of Casing Elevation Using Benchmark of 100 Feet
2. B=benzene; T=Toluene; E=Ethylbenzene X=total Xylenes by SW846 Method 8020 or 8021
3. ug/L = micrograms per Liter
4. Bold values are above Tier 1, Class I Clean-Up Objectives
5. <MDL = Not detected above the method detection limit (MDL) indicated
6. NSr = Not Surveyed

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ATTACHMENT E



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10-14-89 : 9:46PM : DEPT OF ENVIRONMENT

916305564365: # 9/ 8

SENT BY:



City of Chicago
Richard M. Daley, Mayor
Department of Environment

Twenty-fifth Floor
30 North LaSalle Street
Chicago, Illinois 60602-2575
(2) 744-7606 (Voice)
(2) 744-6451 (FAX)
(2) 744-3386 (TTY)
<http://www.ci.chi.il.us>

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., 6th Floor, Chicago, Illinois, 60602 during normal business hours (8:30 AM - 4:30 PM, Monday through Friday).

