

UNOFFICIAL COPY

PREPARED BY:

Name: Tenton, LLC
Attn: Mr. Walter M. Irmen

Address: 4104 North Harlem Avenue
Chicago, Illinois 60634



Doc#: 0728834107 Fee: \$64.00
Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 10/15/2007 02:49 PM Pg: 1 of 21

RETURN TO:

Name: Tenton, LLC
Attn: Mr. Walter M. Irmen

Address: 4104 North Harlem Avenue
Chicago, Illinois 60634

THE ABOVE SPACE FOR RECORDER'S OFFICE

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: 0316225018

Tenton, LLC, the Remediation Applicant, whose address is 4104 North Harlem Avenue, Chicago, Illinois 60634, 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: Legal description- PARCEL 1 THAT PART OF LOT 7 IN THE SNOW ESTATE SUBDIVISION BY SUPERIOR COURT PARTITION OF THAT PART OF THE SOUTHWEST ¼ OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH AND EAST OF THE NORTH BRANCH OF THE CHICAGO RIVER, ALSO LOTS 2,3,4,6,7,9 AND 11 IN THE ASSESSOR'S DIVISION OF THAT PART OF THE SOUTHWEST ¼ OF SECTION 30 AFORESAID, LYING BETWEEN RAILROAD AND RIVER IN COOK COUNTY, ILLINOIS, ACCORDING TO THE MAP RECORDED JANUARY 29, 1873 IN BOOK 3 OF PLATS PAGE 91 DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 7 WHERE IT ABUTS THE LAND AND RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 7, 817 74/100 FEET TO THE CENTER OF HIGHWAY; THENCE NORTHWESTERLY ALONG THE CENTER OF SAID HIGHWAY 132 FEET; THENCE SOUTHWESTERLY NEARLY PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 7, 829 62/100 FEET TO LANDS OF SAID RAILROAD COMPANY, BEING A POINT 132 08/100 FEET FROM THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 7 132 08/100 FEET TO THE POINT OF BEGINNING (EXCEPT HOWEVER (1) THAT PART CONDEMNED FOR RAILROAD PURPOSES IN CASE 206259, ENTITLED CHICAGO AND NORTHWESTERN

(Illinois EPA Site Remediation Program Environmental Notice)

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RAILROAD COMPANY AGAINST VIRGIL M. BRAND, AND OTHERS IN THE SUPERIOR COURT OF COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF LOT 7 WITH THE NORTHEASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY; AND RUNNING THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE OF SAID RIGHT OF WAY, 132 08/100 FEET TO THE SOUTHEASTERLY LINE OF THE LAND OWNED BY CHICAGO AND NORTHWESTERN RAILWAY COMPANY; THENCE NORTHEASTERLY ON A LINE PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 7, 63 50/100 FEET; THENCE SOUTHERLY ON A CURVED LINE CONVEX TO THE WEST AND HAVING A RADIUS OF 130 FEET, A DISTANCE OF 100 40/100 FEET; AND THENCE ON A STRAIGHT LINE TANGENT TO SAID CURVE, 48 FEET MORE OR LESS TO THE POINT OF BEGINNING; (2) THAT PART OF SAID LOT 7 CONVEYED BY CHICAGO TELEPHONE COMPANY TO HERMAN HETTLER BY DEED DATED FEBRUARY 27, 1918 AND RECORDED MARCH 16, 1918 AS DOCUMENT 6288135 AND DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF SAID LOT 7 WITH THE NORTHEASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILROAD COMPANY; THENCE NORTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 7, 61 19/100 FEET; THENCE WESTERLY AT AN ANGLE OF 54 DEGREES 36 MINUTES WITH THE SOUTHEASTERLY LINE OF SAID LOT 7, 88 FEET MORE OR LESS TO THE SOUTHWESTERLY LINE OF THE PROPERTY CONVEYED TO CHICAGO TELEPHONE COMPANY BY DEED FROM VIRGIL BRAND, DATED JUNE 30, 1905 A.D. AND RECORDED JULY 1, 1905 IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS IN BOOK 9085 OF RECORDS PAGE 249 AS DOCUMENT 3718660; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF THE PROPERTY SO CONVEYED TO CHICAGO TELEPHONE COMPANY BY VIRGIL BRAND BY THE DEED AFORESAID, TO THE POINT OF BEGINNING (ALSO EXCEPTING THE NORTHEASTERLY 33 FEET THEREOF TAKEN FOR ELSTON AVENUE) IN COOK COUNTY, ILLINOIS.

2. Common Address: 2606 North Elston Avenue, Chicago, Illinois 60647
3. Real Estate Tax Index/Parcel Index Numbers: 14-30-310-015-0000 and 14-30-310-016-0000
4. Remediation Site Owner: Tenton, LLC
4104 North Harlem Avenue
Chicago, Illinois 60634
5. Land Use: Industrial/Commercial
6. Site Investigation: Comprehensive

See NFR letter for other terms.

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

(217) 782-6761

October 11, 2007

CERTIFIED MAIL

7004-2510-0001-8623-2111

Tenton, LLC
 % Harlem Irving Companies, Inc.
 Attn: Mr. Walter M. Irmen
 4104 North Harlem Avenue
 Chicago, Illinois 60634

Re: 0316225018-Cook County
 Chicago/Ryder Truck 1152
 2606 North Elston Avenue
 Site Remediation Program/Technical Reports
 No Further Remediation Letter

10-11-07A10:32 RCVD

Dear Mr. Irmen:

The *Remedial Action Completion Report* (June 14, 2007/Log No. 07-34091), as prepared by GaiaTech, Inc. for the Ryder Truck 1152 property, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA") and demonstrates that the remedial action was completed in accordance with 35 Illinois Administrative Code Parts 740 and 742.

The Remediation Site, consisting of 2.2 acres, is located at 2606 North Elston 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 (received February 15, 2006/Log No. 06-28466), is Tenton, LLC.

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) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
 ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
 BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
 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 Remediation Site is restricted to Industrial/Commercial land use.
- 2) The land use specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

Preventive, Engineering, and Institutional Controls

- 3) 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:

- 4) 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. 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 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.

Engineering Controls:

- 5) The concrete pavement and asphalt pavement barriers as shown in the attached Site Base Map, must remain over the contaminated soils. The concrete pavement and asphalt pavement barriers must be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.
- 6) The clean soil barrier, which is comprised of a minimum of three (3') feet of clean soil covering the area shown in the attached Site Base Map, must remain over the contaminated soils. This clean soil barrier must be properly maintained as an engineered barrier to inhibit ingestion of the contaminated media.
- 7) The clean soil over a geomembrane barrier, which is comprised of a minimum of three (3') feet of clean soil over a geomembrane material (30 mils or greater in thickness) covering the area shown in the attached Site Base Map, must remain over the contaminated soils. This clean soil over a geomembrane barrier must be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.

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- 8) The geotextile membrane with a minimum of eighteen (18") inches of clean soil barrier covering the area shown in the attached Site Base Map, must remain over the contaminated soils. This geotextile membrane with a minimum of eighteen (18") inches of clean soil barrier must be properly maintained as an engineered barrier to inhibit ingestion of the contaminated media.
- 9) The geotextile membrane with a minimum of eighteen (18") inches of CA-6 and two (2") inches of wood chips barrier covering the area shown in the attached Site Base Map, must remain over the contaminated soils. This geotextile membrane with a minimum of eighteen (18") inches of CA-6 and two (2") inches of wood chips barrier must be properly maintained as an engineered barrier to inhibit ingestion of the contaminated media.
- 10) The concrete floor of the building, as shown in the attached Site Base Map, must remain over the contaminated soils. This concrete floor must be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.

Institutional Controls:

- 11) The City of Chicago agrees through the use of a Highway Authority Agreement (dated September 14, 2007) to allow contaminated groundwater, at 2604-2606 North Elston Avenue, to remain beneath its highway right-of-way. The highway owner also agrees that the contaminated groundwater shall not be utilized as a potable or other domestic supply water.
- 12) 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;
 - 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.

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- b) Written proof of this notification shall be submitted to the Illinois EPA within forty-five (45) days from the date this Letter is recorded 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 this Letter is recorded 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

- 13) The Remediation Applicant has remediated the release associated with Leaking Underground Storage Tank (LUST) Incident Numbers 86-1226 and 2006-0374.
- 14) Where a groundwater ordinance is used to assure long-term protection of human health (as identified under Paragraph 12 of this Letter), the Remediation Applicant must record a copy of the groundwater ordinance adopted and administered by a unit of local government along with this Letter.
- 15) 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.
- 16) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

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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

17) 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 avoidance, explain the provisions for appeal, and describe the facts in support of this cause. Specific acts or omissions that may result in the avoidance 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.

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

- a) Tenton, LLC;
- b) The owner and operator of the Remediation Site;

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- 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.
- 19) 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 Cook 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 Ryder Truck 1152 property.
- 20) 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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21) 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 the Ryder Truck 1152 property, you may contact the Illinois EPA project manager, Russell H. Irwin at (217) 524-2084.

Sincerely,


Joyce L. Munie, P.E., Manager
Remedial Project Management Section
Division of Remediation Management
Bureau of Land

Attachments: Illinois EPA Site Remediation Program Environmental Notice
Site Base Map
Property Owner Certification of No Further Remediation Letter under the Site
Remediation Program Form
Instructions for Filing the NFR Letter

cc: Commissioner, Chicago Department of Environment
Mr. Larry P. Bertsch, PG; GaiaTech, Inc.

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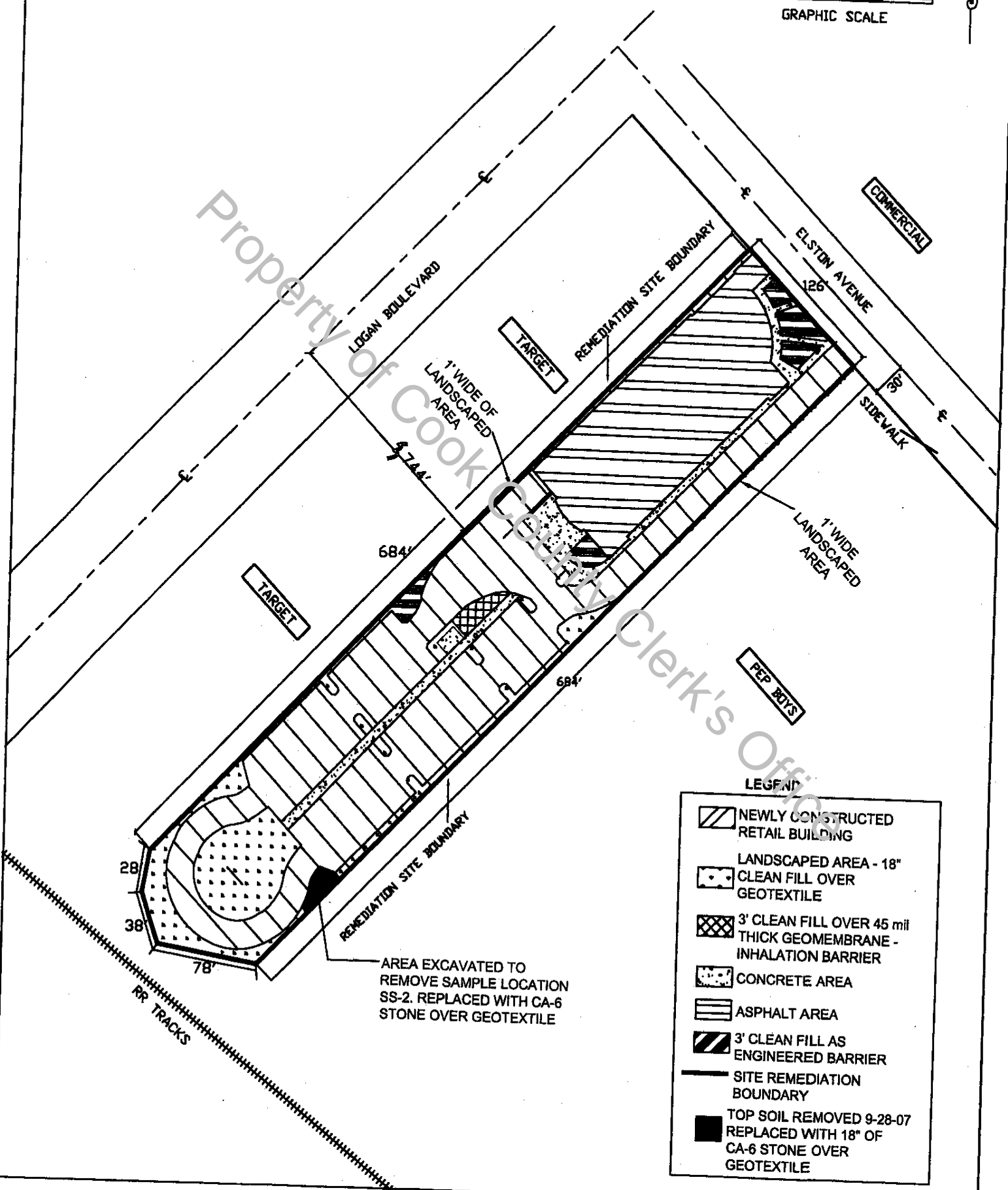
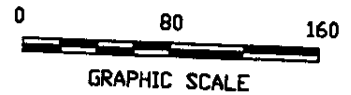
Gaiatech

200 North LaSalle • Suite 2800 • Chicago, IL • 60601
312.541.4200 FAX 312.541.0340

SITE BASE MAP WITH LOCATION OF ENGINEERED BARRIER

LPC# 0316225018
FORMER RYDER TRUCK FACILITY
2606 NORTH ELSTON AVENUE
CHICAGO, ILLINOIS

DESIGN	CHECK	DATE	SCALE	PAGE NO.	FIG. NO.
RJ		9/07	GRAPHIC	99995000	2



LEGEND

	NEWLY CONSTRUCTED RETAIL BUILDING
	LANDSCAPED AREA - 18" CLEAN FILL OVER GEOTEXTILE
	3' CLEAN FILL OVER 45 mil THICK GEOMEMBRANE - INHALATION BARRIER
	CONCRETE AREA
	ASPHALT AREA
	3' CLEAN FILL AS ENGINEERED BARRIER
	SITE REMEDIATION BOUNDARY
	TOP SOIL REMOVED 9-28-07 REPLACED WITH 18" OF CA-6 STONE OVER GEOTEXTILE

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PROPERTY OWNER CERTIFICATION OF THE NFR LETTER UNDER THE SITE REMEDIATION PROGRAM


Where the Remediation Applicant (RA) is not the sole owner of the remediation site, the RA shall obtain the certification by original signature of each owner, or authorized agent of the owner(s), of the remediation site or any portion thereof who is not an RA. The property owner(s), or the duly authorized agent of the owner(s) must certify, by original signature, the statement appearing below. This certification shall be recorded in accordance with Illinois Administrative Code 740.620.

Include the full legal name, title, the company, the street address, the city, the state, the ZIP code, and the telephone number of all other property owners. Include the site name, street address, city, ZIP code, county, Illinois inventory identification number and real estate tax index/parcel index number.

A duly authorized agent means a person who is authorized by written consent or by law to act on behalf of a property owner including, but not limited to:

1. For corporations, a principal executive officer of at least the level of vice-president;
2. For a sole proprietorship or partnership, the proprietor or a general partner, respectively; and
3. For a municipality, state or other public agency, the head of the agency or ranking elected official.

For multiple property owners, attach additional sheets containing the information described above, along with a signed, dated certification for each. All property owner certifications must be recorded along with the attached NFR letter.

Property Owner Information	
Owner's Name:	Tenton LLC
Title:	N/A
Company:	The Harlem Irving Companies, Inc.
Street Address:	4104 North Harlem Avenue
City:	Norridge
State:	IL
Zip Code:	60706
Phone:	773-625-3036
Site Information	
Site Name:	N/A
Site Address:	2606 North Elston Avenue
City:	Chicago
State:	IL
Zip Code:	60647
County:	Cook
Illinois inventory identification number:	0316225018
Real Estate Tax Index/Parcel Index No.:	14-30-310-015-0000 and 14-30-310-016-0000
<p>I hereby certify that I have reviewed the attached No Further Remediation Letter and that I accept the terms and conditions and any land use limitations set forth in the letter.</p> <p style="text-align: center;">Tenton LLC</p> <p>Owner's Signature: <u>Donald W. Bailey</u> By: The Harlem Irving Companies, Inc., Manager</p> <p style="text-align: right;">Date: <u>Oct. 10, 2007</u></p>	
<p>SUBSCRIBED AND SWORN TO BEFORE ME this <u>10th</u> day of <u>October</u>, 2007</p> <p><u>GREGORY E FIX</u> Notary Public</p>	
	

The Illinois EPA is authorized to require this information under Sections 415 ILCS 5/58 - 58.12 of the Environmental Protection Act and regulations promulgated thereunder. If the Remediation Applicant is not also the sole owner of the remediation site, this form must be completed by all owners of the remediation site and recorded with the NFR Letter. Failure to do so may void the NFR Letter. This form has been approved by the Forms Management Center. All information submitted to the Site Remediation Program is available to the public except when specifically designated by the Remediation Applicant to be treated confidentially as a trade secret or secret process in accordance with the Illinois Compiled Statutes, Section 7(a) of the Environmental Protection Act, applicable Rules and Regulations of the Illinois Pollution Control Board and applicable Illinois EPA rules and guidelines.

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SUBSTITUTE

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The Municipal Code of the City of Chicago is hereby amended by adding a new Section 11-8-390, as follows:

11-8-390 Potable water wells.

For purposes of this section, "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. No groundwater well, cistern or other groundwater collection device installed after May 14, 1997, may be used to supply any potable water supply system, except at points of withdrawal by the City of Chicago or by a unit of local government pursuant to intergovernmental agreement with the City of Chicago.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and approval.

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CHICAGO,
ILLINOIS AND THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
REGARDING (A) THE USE OF A LOCAL POTABLE WATER SUPPLY WELL
ORDINANCE AS AN ENVIRONMENTAL INSTITUTIONAL CONTROL AND
(B) THE PROVISION OF INFORMATION RELATING TO "NO FURTHER
REMEDICATION" DETERMINATIONS BY THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY TO THE CITY OF CHICAGO**

I. PURPOSE AND INTENT

- A. This Memorandum of Understanding ("MOU") is entered into between the City of Chicago, Illinois ("the City") and the Illinois Environmental Protection Agency ("Illinois EPA") for the purpose of (a) satisfying the requirements of 35 Ill. Adm. Code 742.1015 for the use of potable water supply well ordinances as environmental institutional controls and (b) ensuring that the City will be provided with copies of all "No Further Remediation" letters or determinations issued by the Illinois EPA pursuant to specific programs for sites located within the boundaries of Chicago, Illinois, in order to enable the City to maintain a complete and up-to-date registry of sites as required by 35 Ill. Adm. Code 742.1015(i)(5). The Illinois EPA has reviewed Sections 11-8-385 and 11-8-390 of the Municipal Code of Chicago as amended by Ordinance Number 097990 ("Potable Water Supply Well Ordinance"), attached as Attachment A, and has determined that the Municipal Code of Chicago prohibits the installation and use of new potable water supply wells by private entities but will allow the installation of potable water supply wells by the City and other units of local government pursuant to intergovernmental agreements with the City. In such cases, 35 Ill. Adm. Code 742.1015(a) provides that the City may enter into an MOU with the Illinois EPA to allow the use of the ordinance as an institutional control.
- B. The intent of this Memorandum of Understanding is to (a) specify the responsibilities that must be assumed by the City to satisfy the requirements for MOUs as set forth at 35 Ill. Adm. Code 742.1015(i), and (b) require the Illinois EPA to provide the City with copies of all "No Further Remediation" letters or determinations that the Illinois EPA issues for sites located within the City of Chicago to enable the City to maintain a registry of sites pursuant to 35 Ill. Adm. Code 742.1015(i)(5).

II. DECLARATIONS AND ASSUMPTION OF RESPONSIBILITY

- A. In order to ensure the long-term integrity of the Potable Water Supply Well Ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the Potable Water Supply Well Ordinance is effectively managed, the City hereby assumes the following responsibilities pursuant to 35 Ill. Adm. Code 742.1015(i):

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1. The City will notify the Illinois EPA Bureau of Land of any changes to or requests for variance from the Potable Water Supply Well Ordinance at least 30 days prior to the date the local government is scheduled to take action on the proposed change or request (35 Ill. Adm. Code 742.1015(i)(4));
2. The City will maintain a registry of all sites within its corporate limits that have received "No Further Remediation" determinations from the Illinois EPA pursuant to specific programs (35 Ill. Adm. Code 742.1015(i)(5));
3. If the City determines to install a new potable water supply well(s), the City will review the registry of sites established under paragraph II.A.2. prior to siting such potable water supply well(s) within the area covered by the Potable Water Supply Well Ordinance, pursuant to 35 Ill. Adm. Code 742.1015(i)(6)(A);
4. If the City determines to install a new potable water supply well(s), the City will determine whether the potential source of potable water has been or may be affected by contamination left in place at the sites tracked and reviewed under paragraphs II.A.2. and 3. (35 Ill. Adm. Code 742.1015(i)(6)(B)); and
5. If the City determines to install a new potable water supply well(s), the City will take action as necessary to ensure that the potential source of potable water is protected from contamination or treated before it is used as a potable water supply (35 Ill. Adm. Code 742.1015(i)(6)(C));
6. If the City enters into intergovernmental agreements under Section 11-8-390 of the Municipal Code of Chicago to allow other units of local government to install new potable water supply well(s) within the corporate limits of the City, the City will require compliance with the procedures set forth in paragraphs II.A.3., 4., and 5. as a part of such agreements.
7. Notification under paragraph II.A.1. above, or other communications concerning this MOU directed to the Illinois EPA, shall be addressed to:

Manager, Division of Remediation Management
 Bureau of Land
 Illinois Environmental Protection Agency
 P.O. Box 19276
 Springfield, IL 62794-9276

- B. In order to ensure the long-term integrity of the Potable Water Supply Well Ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the Potable Water Supply Well Ordinance or other specific programs can be effectively managed, the Illinois EPA hereby assumes

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the following responsibilities:

1. The Illinois EPA will provide the City with copies of all "No Further Remediation" letters or determinations that it issues pursuant to 35 Ill. Adm. Code 742, and other specific programs, for sites located within the boundaries of the City at the time said letters or determinations are provided to remediation applicants.
2. Copies of "No Further Remediation" letters or determinations provided to the City pursuant to paragraph II.B.1. above, or other communications concerning this MOU directed to the City, shall be addressed to:

Commissioner
Chicago Department of Environment
25th Floor
30 North LaSalle Street
Chicago, IL 60602-2575

III. SUPPORTING DOCUMENTATION

The following documentation is required by 35 Ill. Adm. Code 742.1015(i) and is attached to this MOU:

- A. Attachment A: A copy of the Potable Water Supply Well Ordinance certified by the city clerk or other official as the current, controlling law (35 Ill. Adm. Code 742.1015(i)(3)) and a statement of the authority of the City to enter into the MOU (35 Ill. Adm. Code 742.1015(i)(1));
- B. Attachment B: Identification of the legal boundaries within which the Potable Water Supply Well Ordinance is applicable (35 Ill. Adm. Code 742.1015(i)(2)); and

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IN WITNESS WHEREOF, the lawful representatives of the parties have caused this MOU to be signed as follows:

FOR: The City of Chicago, Illinois

Ill. State Police
Agency of Division of Remediation Management

BY: *Anthony J. Henderson* DATE: July 1, 1997
Commissioner
Department of Environment
City of Chicago

FOR: Illinois Environmental Protection Agency

BY: *Gary P. King* DATE: July 3, 1997
(Name and title of signatory)
Division of Remediation Management
Bureau of Land

Version 6/27/97

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CITY CLERK'S OFFICE — CITY OF CHICAGO

FORM C.C. 424 3M 4-08

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

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

11-8-385 Potable Water Defined.

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

11-8-290 Prohibited Use Of Secondary Water; Prohibited Installation Of New Potable Water Supply Wells.

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

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

EXHIBIT

A

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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.

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STATE OF ILLINOIS, ss.
County of Cook.

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

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

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

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

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

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

[L. S.]

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

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City of Chicago
Richard M. Daley, Mayor

Department of Environment

Henry L. Henderson
Commissioner

Twenty-fifth Floor
60 North LaSalle Street
Chicago, Illinois 60602-2575
312) 744-7606 (Voice)
312) 744-6451 (FAX)
312) 744-3586 (TTY)
<http://www.ci.chi.il.us>

July 1, 1997

Mr. Gary P. King
Manager, Division of Remediation Management
Bureau of Land
Illinois Environmental Protection Agency
1001 N. Grand Avenue, East
Springfield, IL 62702

RECEIVED

JUL 03 1997

I.E.P.A. / B.O.L.

Re: Chicago Ordinance No. 097990

Dear Mr. King:

Pursuant to 35 Ill. Adm. Code 742.1015(l)(2), Section 11-8-385 and 11-8-390 of the Municipal Code of Chicago, as amended by Ordinance No. 097990, apply to all areas within the corporate limits of the City of Chicago.

Sincerely,

Henry L. Henderson
Commissioner

cc: Mort Ames
Asst. Corp. Counsel



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STATE OF ILLINOIS-

County of Cook ss.

I, JAMES J. LASKI, City Clerk of the City of Chicago in the County of Cook and State of Illinois, DO HEREBY CERTIFY that the annexed and foregoing is a true and correct copy of the certain ordinance now on file in my office for an amendment of Title 11, Chapter 8 of Municipal Code of Chicago by addition of new Section 390 defining potable water and prohibiting use of certain groundwater collection devices to supply any potable water supply system.

I DO FURTHER CERTIFY that the said ordinance was adopted by the City Council of the said City of Chicago on the twenty-eighth (28th) day of November, A.D. 2001 and deposited in my office on the twenty-eighth (28th) day of November, A.D. 2001.

I DO FURTHER CERTIFY that the vote on the question of the adoption of the said ordinance by the said City Council was taken by yeas and nays and recorded in the Journal of the Proceedings of the said City Council, and that the result of said vote so taken was as follows, to wit:

Yeas 47. Nays 0.

I DO FURTHER CERTIFY that the said ordinance was delivered to the Mayor of the said City of Chicago after the adoption thereof by the said City Council, without delay, by the City Clerk of the said City of Chicago, and that the said Mayor failed to return the said ordinance to the said City Council with his written objections thereto at the next regular meeting of the said City Council occurring not less than five (5) days after the adoption of the said ordinance.

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

[L.S.]

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Chicago aforesaid, at the said City, in the County and State aforesaid, this sixth (6th) day of December, A.D. 2001.

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

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