

UNOFFICIAL COPY

09016780

002

86870126 32 001 Page 1 of 27
1999-10-28 14:49:46
Cook County Recorder 73.50



PREPARED BY:

Name: Mr. John Grant

Address: 5354 North Damen Avenue
Chicago, Illinois 60640

RETURN TO:

Name: AMERICAN TANK INC.
2711 SOUTH WABASH AVENUE
CHICAGO, ILLINOIS 60616
ATTN: ALISA S. LEYDEN



THE ABOVE SPACE FOR RECORDER'S OFFICE

THIS ENVIRONMENTAL NO FURTHER REMEDIATION LETTER MUST BE SUBMITTED BY THE OWNER/OPERATOR, WITHIN 45 DAYS OF ITS RECEIPT, TO THE RECORDER OF DEEDS OF COOK COUNTY IN WHICH THE SITE (AS DESCRIBED BELOW) IS LOCATED.

Illinois EPA Number: 0316035103
LUST Incident No.: 950098

Mr. John Grant, the owner and operator, whose address is 5354 North Damen Avenue, Chicago, Illinois has performed investigative and/or remedial activities for the site that can be identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries:
LOTS 1,2,3,4, AND 5 IN MRS. SMITH'S BALMORAL DAMEN SUBDIVISION OF THE NORTH 1/4 OF THE EAST 1/2 OF THE NORTH EAST 1/4 OF THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 7, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.
2. Common Address: 5354 North Damen Avenue
3. Real Estate Tax Index/Parcel Index Number: 14-07-109-026; 14-07-109-027; 14-07-109-028.
4. Site Owner: John Grant
5. Land Use Limitation: There are no land use limitations
6. See the attached No Further Remediation Letter for other terms.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

THOMAS V. SKINNER, DIRECTOR

217/782-6762

OCT 15 1999

February 16, 1999

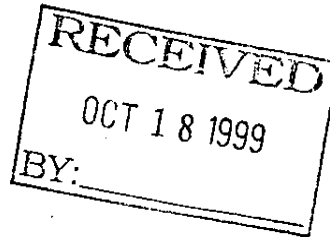
(Revised October 15, 1999)

ORIGINAL

CERTIFIED MAIL

Z 416 156 035

Mr. John Grant
5354 North Damen Avenue
Chicago, Illinois 60625



Re: LPC #0316035103 -- Cook County
Chicago / Bob's Service
5354 North Damen Avenue
LUST Incident No. 950098
LUST Technical File

Dear Mr. Grant:

The Illinois Environmental Protection Agency ("Illinois EPA") has reviewed the 45-Day Report and Corrective Action Completion Report submitted for the above-referenced incident. This information was dated June 22, 1999; was received by the Agency, June 24, 1999; and was prepared by Leyden Environmental, Inc.

The Corrective Action Completion Report and the Professional Engineer Certification submitted pursuant to 35 Illinois Administrative Code Section 732.300(b) (1) and Section 732.409(b) indicate that the remediation objectives set forth in 35 Illinois Administrative Code Section 732.408 have been met.

Based upon the certification by Frank P. Bleier, a Registered Professional Engineer of Illinois, and pursuant to Section 57.10 of the Environment Protection Act ("Act") (415 ILCS 5/57.10), your request for a no further remediation determination is granted under the conditions and terms specified in this letter.

Issuance of this No Further Remediation Letter ("Letter"), based on the certification of the Registered Professional Engineer, signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with; (2) all corrective action concerning the occurrence has been completed; and (3) no further remediation concerning the occurrence is necessary for the protection of human health, safety and the environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following persons:

1. Mr. John Grant
2. The owner and operator of the UST(s);
3. Any parent corporation or subsidiary of the owner or operator of the UST(s);
4. Any co-owner or co-operator, either by joint-tenancy, right of survivorship, or any other party sharing a legal relationship with the owner or operator to whom the letter is issued;
5. Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable;
6. Any mortgagee or trustee of a deed of trust of the owner of the site or any assignee, transferee, or any successor-in-interest of the owner of the site;
7. Any successor-in-interest of such owner or operator;
8. Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest; or
9. Any heir or devisee of such owner or operator.

This Letter, including all attachments, must be filed within 45 days of its receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the County where the above-referenced site is located. In addition the Memorandum of Understanding, Groundwater Ordinance must be filed as an attachment of this letter with the Office of the Recorder of the applicable county. This Letter shall not be effective until officially recorded by the Office of the Recorder or Registrar of Titles of the applicable County in accordance with Illinois law so that it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded by the Office of the Recorder or Registrar of Titles of the applicable county, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA. For recording purposes, it is recommended that the Leaking Underground Storage Tank Environmental Notice attached to this Letter be the first page of the instrument filed.

CONDITIONS AND TERMS OF APPROVAL

LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. The remediation objectives for the above-referenced site described in the Leaking Underground Storage Tank Environmental Notice of this Letter were established in accordance with the requirements of the Tiered Approach to Corrective Action Objectives (TACO, 35 Illinois Administrative Code Part 742) rules.

UNOFFICIAL COPY

09016780

2. As a result of the release from the underground storage tank(s) associated with the above-referenced incident, the site described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter shall not be used in a manner inconsistent with the following land use limitation: There are no land use limitations.
3. The land use limitation specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS

4. Preventive: The groundwater under the site described in the attached Leaking Underground Storage Tank Environmental Notice of this letter shall not be used as a potable supply of water.
- Engineering: A building or asphalt/concrete barrier that is sufficient in thickness to inhibit the inhalation and ingestion of the contaminated media as well as to impede contaminant migration to the groundwater must remain over the contaminated soils. This building or asphalt/concrete barrier is to be properly maintained in the future as an engineered barrier to inhibit inhalation and ingestion of the contaminated media as well as to impede contaminant migration to the groundwater.
- Institutional: This Letter shall be recorded as a permanent part of the chain of title for the site described in the attached Leaking Underground Storage Tank Environmental Notice.

The City of Chicago, through the use of a Highway Authority Agreement, to allow contaminated groundwater or soils to remain beneath its highway right-of-way as indicated in the Highway Authority Agreement

The ordinance(s) adopted and administered by the local unit of government that restricts the present and future use of groundwater in the City shall be monitored for any changes to these ordinance(s), that may affect the ability of these ordinance(s) to act as an institutional control.

5. Failure to establish, operate, and maintain controls in full compliance with the Environmental Protection Act, applicable regulations, and the approved corrective action plan may result in voidance of this Letter.

UNOFFICIAL COPY

09016780

OTHER TERMS

6. Any contaminated soil or groundwater that is removed, excavated, or disturbed from the above-referenced site must be handled in accordance with all applicable laws and regulations.
7. Further information regarding this site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attention: Freedom of Information Act Officer
Bureau of Land - #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

8. Pursuant to Section 5/10(e) of the Act (415 ILCS 5/57.10(e)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current title holder and to the owner or operator 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 this Letter include, but shall not be limited to:
 - a) Any violation of institutional controls or industrial/commercial land use restrictions;
 - b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c) The disturbance or removal of contamination that has been left in-place in accordance with the Corrective Action Plan or Completion Report;
 - d) The failure to comply with the recording requirements for the Letter;
 - e) Obtaining the Letter by fraud or misrepresentation; or
 - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment.

Within 35 days after the date of mailing of this final decision, the owner or operator may petition for a hearing before the Illinois Pollution Control Board (Board) to contest the decision of the Illinois EPA. (For information regarding the filing of an appeal, please contact the Board at 312/814-3620.) However, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the owner or operator and the Illinois EPA within the 35-day initial appeal period. (For information regarding

UNOFFICIAL COPY

09016780

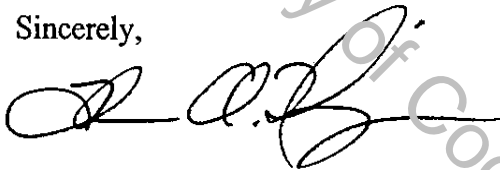
the filing of an extension, please contact the Illinois EPA's Division of Legal Counsel at 217/782-5544.)

Submit the certified copy of this letter, as recorded, to:

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

If you have any questions or need further assistance, please contact Michael L. Eppley at 217/524-4653.

Sincerely,



Thomas A. Henninger
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation
Bureau of Land

cc: Leyden Environmental, Inc.
Division File

Property of Cook County Clerk's Office

TIERED APPROACH TO CORRECTIVE ACTION RIGHT-OF-WAY AGREEMENT

This agreement is entered into this ^{6th} ~~15th~~ day of ^{May} ~~April~~, 199 9 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 Mr. John Grant ("Owner") and N/A ("Operator"), together referred to herein as "Owner/Operator," 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/Operator. The duly authorized representatives of Owner and Operator have signed this Agreement, and this Agreement is binding upon them, their successors and assigns.
2. Owner/Operator stipulates:
 - a. Owner/Operator is pursuing corrective action at a Site and in the right-of-way adjacent to the Site located at 5354 North Damen Avenue, Chicago, IL ("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 contaminant from a release at the Site.
 - c. Attached as Attachment C is a site map showing the area 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 950098 to the Site.
 - f. Owner/Operator 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 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 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 for the Illinois Pollution Control Board ("Board") regulations for such Agreements.
 - b. This Agreement shall be recorded by the Owner/Operator at its expense along with the Illinois EPA's "No Further Remediation" determination with the Cook County Recorder of Deeds. The Owner/Operator will similarly record any attachments, addendum's, or

alterations to this Agreement. Within thirty (30) days of such recording with the Cook County Recorder of Deeds, the Owner/Operator shall provide the City a copy of the Agreement that has been stamped by the Cook County Recorder of Deeds to indicated that is has 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/Operator agrees to reimburse the City for maintenance activities requested by Owner/Operator. 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 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 property identified in Attachment B or allow others to use the right-of-way. To the 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/Operator shall reimburse the actual costs incurred by the City or others in contaminated soil and/or groundwater, and it shall not be a defense for Owner/Operator 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, the City shall first give Owner/Operator 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. Failure to give this opportunity to Owner/Operator 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~~ ^{FROM} the release of containments at the Site. Should Owner/Operator 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/Operator agrees to indemnify and hold harmless the City, its agents and employees, and other entities using the right-of-way by 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/Operator, or its successor(s) in interest, may be grounds for ~~voidance~~ of this Agreement as a Highway Authority Agreement.

VOIDANCE



RECEIVED
JUN 24 1999
EPA/BOL

- 8. No violation of a permit by third party shall constitute a breach of this Agreement by the City. Owner/Operator 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/Operator'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/Operator 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/Operator 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 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/Operator of the Site and the right-of-way identified in Attachment B.
- 12. 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.

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

BY: [Signature]
William F. Abolt

Date: 5/5/99

IN WITNESS WHEREOF, Owner, John Grant has caused this Agreement to be signed by its duly authorized representative:

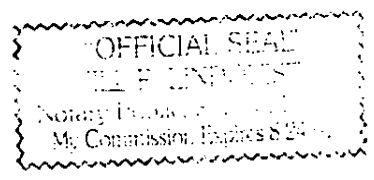
BY: [Signature]

Date: 4-15-99

IN WITNESS WHEREOF, Operator, N/A has caused this Agreement to be signed by its duly authorized representative: SAME AS OWNER (N)

BY: [Signature]

Date: 4/15/99



UNOFFICIAL COPY

09016780

ATTACHMENT "A"

LEGAL DESCRIPTION OF SITE LOCATED AT 5354 N. DAMEN AVE.:

Lots 1, 2, 3, 4, and 5 in Mrs. Smith's Balmoral Damen Subdivision of the North $\frac{1}{4}$ of the East $\frac{1}{2}$ of the North East $\frac{1}{4}$ of the South East $\frac{1}{4}$ of the North West $\frac{1}{4}$ of Section 7, Township 40 North, Range 14, East of the Third Principal Meridian in Cook County, ~~Illinoi-~~ Illinois. (P)

ILLINOIS

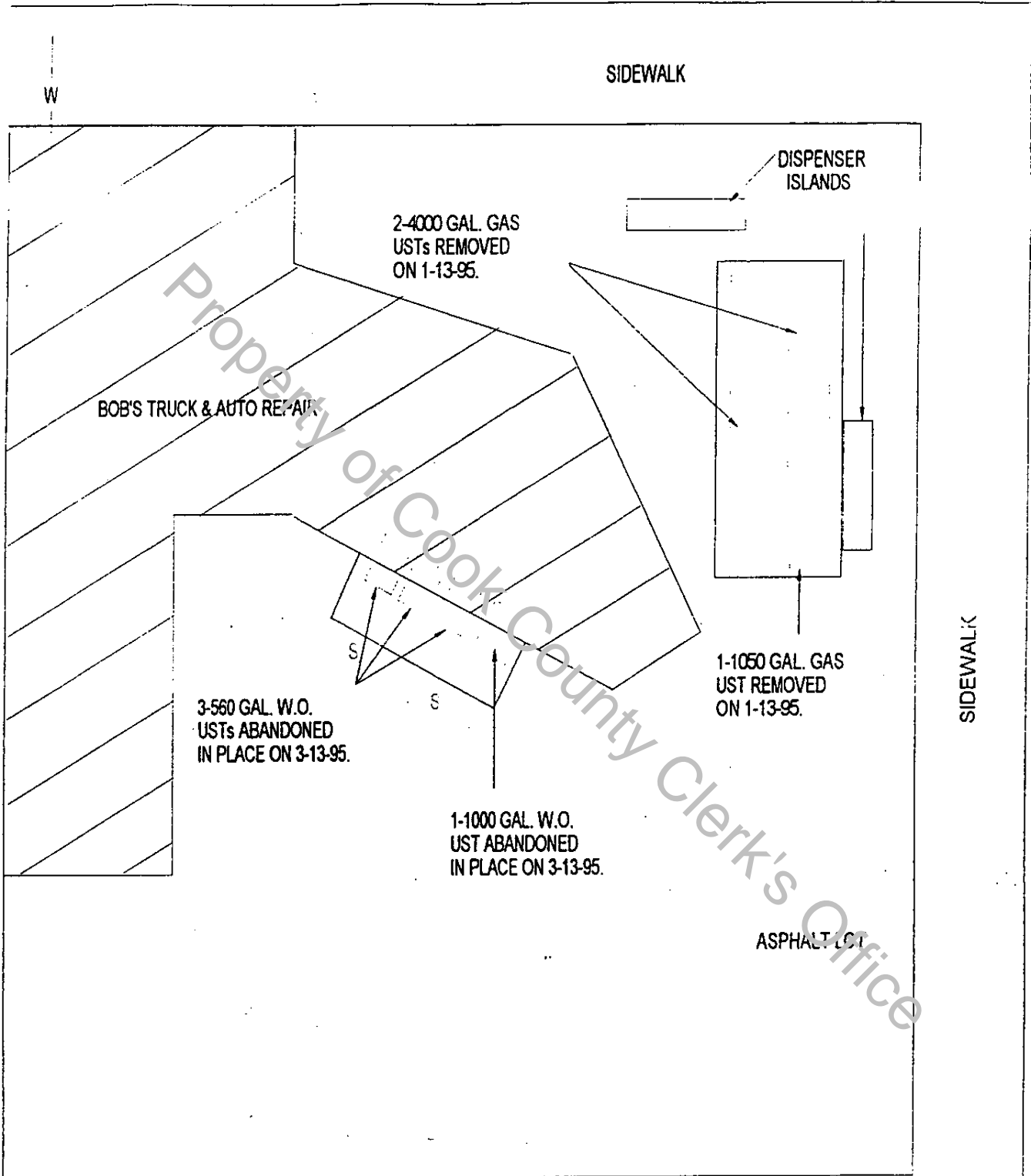
Property of Cook County Clerk's Office

UNOFFICIAL COPY

09016780

ATTACHMENT "B"

BALMORAL AVENUE



LEGENDS

- UTILITY POLE
- W WATER
- GAS
- SEWER

LOCATION

5354 NORTH DAMEN AVENUE, CHICAGO, IL

DESCRIPTION:

SITE MAP

DATE:

AUG. 98

SCALE:

1" = 20'

DRAWER:

SD

PROJECT

51878

DRAWN BY

LEYDEN ENVIRONMENTAL INC.

UNOFFICIAL COPY

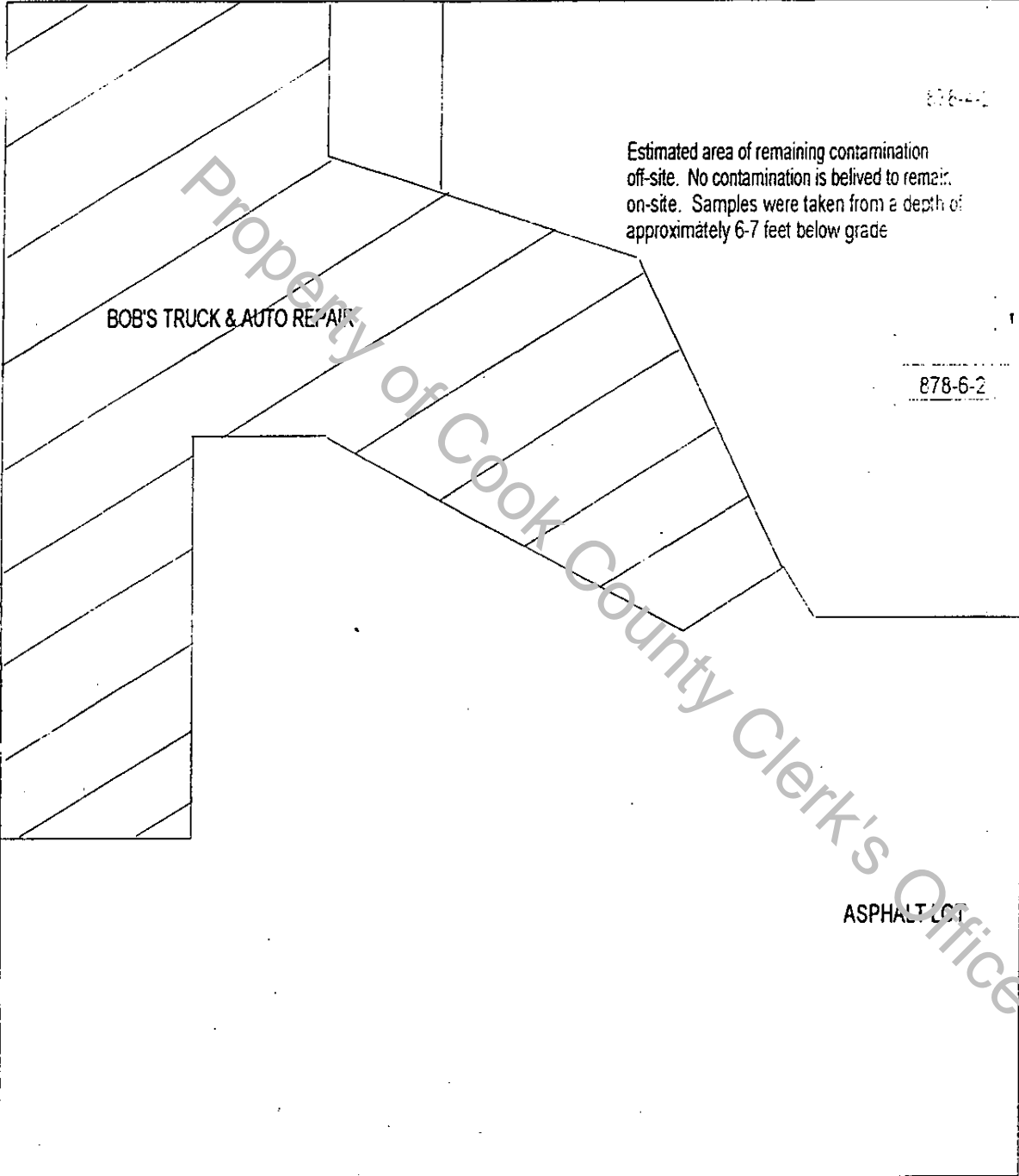
ATTACHMENT C

09016780

BALMORAL AVENUE

10/15/98

SIDEWALK



ALLEY

DAMEN AVENUE

SIDEWALK

ASPHALT LOT

| | | | |
|--------------|---------------------------|--------------------------------------|---------|
| LOCATION | | 5354 NORTH DAMEN AVENUE, CHICAGO, IL | |
| DESCRIPTION: | REMEDIAL SAMPLE LOCATIONS | DATE: | AUG. 98 |
| SCALE | 1" = 20' | DRAWN: | SD |
| PROJECT # | 51878 | | |

LEYDEN ENVIRONMENTAL INC.

UNOFFICIAL COPY

09016780

ATTACHMENT "D"
for site located at 5354 North Damen, Chicago, Illinois
Sample Concentration Table for Soil Samples that Exceed Tier I Residential Objective

| Sample # | Benzene | Tier I Res.Obj. | Ethylbenzene | Tier I Res. Obj. |
|----------|---------|-----------------|--------------|------------------|
| 878-4-2 | 0.908 | 0.03 | 20.2 | 13 |
| 878-6-2 | 0.097 | 0.03 | 0.439 | 13 |

All values are listed in ppm

No groundwater is believed to have been impacted

Property of Cook County Clerk's Office



City of Chicago
Richard M. Daley, Mayor

Department of Environment

Twenty-fifth Floor
30 North LaSalle Street
Chicago, Illinois 60602-2575
312) 744-7606 (Voice)
312) 744-6451 (FAX)
312) 744-5586 (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:

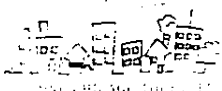
I have reviewed and understand the documents, maintained by the Department of Environment, regarding environmental contamination of the site and adjacent right-of-way. Further, I will assure that all work at the subject site and adjacent right-of-way will be performed in a manner that is protective of 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).

NEIGHBORHOODS



ORDINANCE

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 underscored, as follows:

11-8-385 Potable water defined.

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

11-8-390 Prohibited use of secondary water; Prohibited installation of new potable water supply wells.

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

UNOFFICIAL COPY

09016780

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 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 bracketed and inserting the language underscored, 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

UNOFFICIAL COPY

09016780

Program:

.....

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval.

Property of Cook County Clerk's Office

Document No. 097-990

Property of Cook County Clerk's Office

| | |
|--|---|
| <p>PASSED by the City Council of the City of Chicago and deposited in the office of the City Clerk of said City.</p> | <p>MAY 14 1997</p> <p><i>John J. Fark</i></p> <p>City Clerk City of Chicago</p> |
|--|---|

UNOFFICIAL COPY

09016780

July 2, 1997

BY EXPRESS MAIL

RECEIVED

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

JUL 03 1997

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

Re: Memorandum of Understanding Between City of Chicago and
IEPA

Dear Mr. King:

Enclosed please find two executed copies of the Memorandum of Understanding ("MOU") between the City of Chicago and the Illinois Environmental Protection Agency, pursuant to 35 Ill. Adm. Code 742.1015. As I discussed earlier with Mark Wight, the version of the MOU that is enclosed varies from the one you and he approved only in that there are two exhibits rather than three, since the new groundwater ordinance also includes a provision authorizing the City of Chicago's Commissioner of Environment to enter into this MOU, thus simultaneously satisfying the requirements of 35 Ill. Adm. Code 742.1015(i)(3) and 742.1015(i)(1), relating to required MOU attachments. As to the remaining attachment (identification of the legal boundaries within which the Potable Water Supply Well Ordinance is applicable), Mr. Wight said that a letter from a City official stating that the ordinance applied throughout the City would satisfy the requirements of 35 Ill. Adm. Code 742.1015(i)(2). A letter to that effect is attached as Exhibit B.

Please execute both documents and return the one marked "City Copy" to me for our files. If you have any questions, do not hesitate to contact me at 312-744-6904.

Sincerely,

Mort P. Ames

Mort P. Ames

Assistant Corporation Counsel

Encl.

cc w/o encl.: Henry L. Henderson
Jessica Rio
Jill Wineman

WORK



City of Chicago
Richard M. Daley, Mayor

Department of Law
Susan S. Sher
Corporation Counsel

Suite 900
30 North LaSalle Street
Chicago, Illinois 60602
(312) 744-9010
(312) 744-6798 (FAX)

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 REMEDIATION" 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):

UNOFFICIAL COPY

09016780

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

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

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

FOR: The City of Chicago, Illinois

BY: Abby S. 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

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.

11-8-390 Prohibited Use Of Secondary Water; Prohibited Installation Of New Potable Water Supply Wells.

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

Wherever the fire-protective equipment in any building, structure or premises has service from the Chicago Waterworks System, no pipe or other conduit which 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

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.

UNOFFICIAL COPY

STATE OF ILLINOIS, ss.
County of Cook.

09016780

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.

UNOFFICIAL COPY

09016780

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(I)(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



City of Chicago
Richard M. Daley, Mayor

Department of Environment

Henry L. Henderson
Commissioner

Twenty-fifth Floor
30 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>



Please
Recycle!

EXHIBIT

B

