



Doc#: 1014629037 Fee: \$84.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/26/2010 11:10 AM Pg: 1 of 25

PREPARED BY:

Name: Shell Oil Products US
Attention: Mr. John Robbins

Address: 603 Diehl Road, Suite 103
Naperville, Illinois 60563

RETURN TO:

Name: Shell Oil Products US
Attention: Mr. John Robbins

Address: 603 Diehl Road, Suite 103
Naperville, Illinois 60563

(THE ABOVE SPACE FOR RECORDER'S OFFICE)

LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK SYSTEM(S) ASSOCIATED WITH THE RELEASE REFERENCED BELOW, WITHIN 45 DAYS OF RECEIVING THE NO FURTHER REMEDIATION LETTER CONTAINING THIS NOTICE, MUST SUBMIT THIS NOTICE AND THE REMAINDER OF THE NO FURTHER REMEDIATION LETTER TO THE OFFICE OF THE RECORDER OR REGISTRAR OF TITLES OF COOK COUNTY IN WHICH THE SITE DESCRIBED BELOW IS LOCATED.

Illinois EPA Number: 0316165019

Leaking UST Incident No.: 20080987

Shell Oil Products US, the owner and/or operator of the leaking underground storage tank system(s) associated with the above-referenced incident, whose address is 603 Diehl Road, Suite 103, Naperville, Illinois, has performed investigative and/or remedial activities for the site identified as follows:

1. Legal Description or Reference to a Plat Showing the Boundaries: See Attachment
2. Common Address: 3181 N. Milwaukee Avenue, Chicago, Illinois
3. Real Estate Tax Index/Parcel Index Number: 13-26-103-003-0000
4. Site Owner: True North Energy, LLC
5. Land Use Limitation: The groundwater under the site shall not be used as a potable water supply.
6. See the attached No Further Remediation Letter for other terms.

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OF 2045-C-017001-51

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

Tract 85, - 3181 N Milwaukee, Chicago, COOK, WIC 212-1545-9609
Tax Parcel # 13-26-103-003

That part of lot 3 in Davlin, Kelly and Carroll's subdivision of the North West quarter of Section 26, Township 40 North, Range 13, East of the Third Principal Meridian described as follows: Beginning at the South East corner of West Belmont Avenue and North Avers Avenue (as opened) which corner is 57 feet East of the point of intersection of the South line of said West Belmont Avenue and the North Easterly line of North Milwaukee Avenue and running thence South along the East line of said North Avers Avenue (as opened) perpendicular to said South line of West Belmont Avenue a distance of 43.88 feet to its intersection with said North Easterly line of North Milwaukee Avenue thence South Easterly along said North Easterly line of North Milwaukee Avenue a distance of 183.54 feet to the Westery corner of a brick building, thence North Easterly along the North Westerly face of said brick building and along a North Easterly extension of the line of said North Westerly face, a distance of 84.46 feet thence North perpendicular to said South line of West Belmont Avenue a distance of 97.6 feet to said South street line and thence West along said South line of West Belmont Avenue a distance of 194.62 feet to the place of beginning in Cook County, Illinois.

98599320

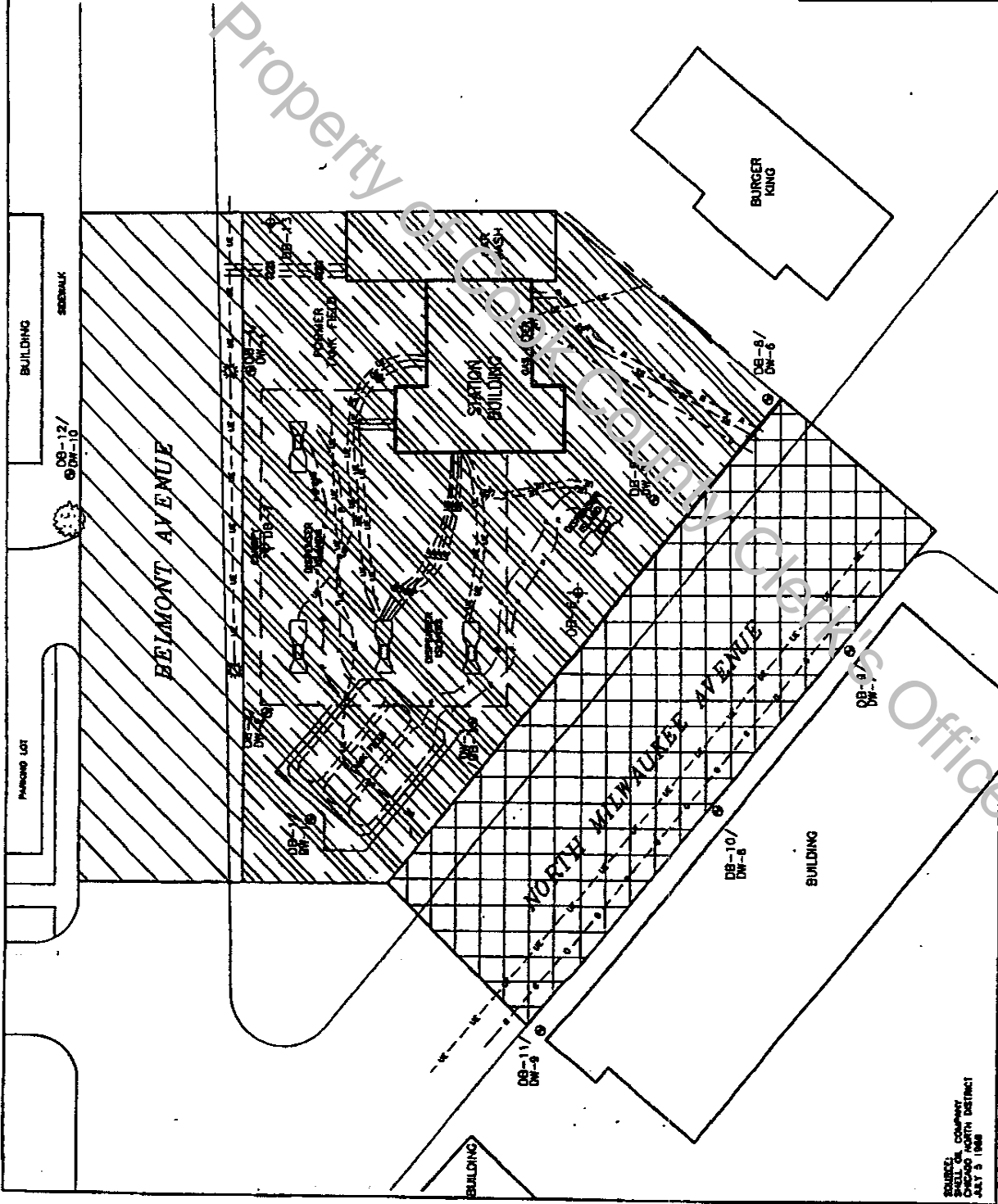
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LEGEND

- PROPERTY BOUNDARY
- LIGHT POLE
- MONITORING WELL
- SOIL BORING
- UNDERGROUND SANITARY SEWER LINE
- UNDERGROUND ELECTRIC LINE
- UNDERGROUND WATER LINE
- UNDERGROUND GAS LINE
- AREA SUBJECT TO GROUNDWATER ORGANIC USE RESTRICTION NOTIFICATION
- AREA SUBJECT TO CITY OF CHICAGO HIGHWAY AUTHORITY AGREEMENT
- AREA SUBJECT TO GROUNDWATER ORGANIC USE RESTRICTION

DESIGNED BY M.L.Y. (N.J.)	PROPOSED INSTITUTIONAL CONTROLS MAP
CHECKED BY	SHELL OIL PRODUCTS US
APPROVED BY	SHELL SERVICE STATION SAP# 136986
	3181 NORTH MILWAUKEE AVENUE CHICAGO, ILLINOIS
	Groundwater & Environmental Services, Inc. 1050 CORPORATE BOULEVARD, SUITE C, AURORA, IL 60505
NORTH	SCALE IN FEET
	DATE
	7-13-09
	FIGURE
	10



SOURCE:
SHELL OIL COMPANY
CHICAGO NORTH DISTRICT
JULY 9, 1988

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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 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, 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

BY: *Archie L. 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)
Mgr, Division of Remediation Management
Bureau of Land

Version 6/27/97

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

CERTIFIED MAIL

7008 1830 0001 4713 9381

March 31, 2010

MAY 17 2010

CORRECTED COPY

Shell Oil Products US
Attention: Mr. John Robbins
603 Diehl Road, Suite 103
Naperville, Illinois 60563

Re: LPC #0316165019 - Cook County
Chicago/ Shell Service Station #136988
3181 North Milwaukee Avenue
Leaking UST Incident No. 20080987
Leaking UST Technical File

Dear Mr. Robbins:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report submitted for the above-referenced incident. This information was dated March 5, 2010 and was received by the Illinois EPA on March 9, 2010. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Corrective Action Completion Report and associated Licensed Professional Engineer Certification submitted pursuant to Section 57.7(b)(5) of the Act and 35 Ill. Adm. Code 734.135(d) indicate corrective action for the above-referenced site was conducted in accordance with the Corrective Action Plan approved by the Illinois EPA. The Corrective Action Completion Report demonstrates that the requirements of Section 57.7(b) of the Act have been satisfied.

Based upon the certification by David G. Tully, a Licensed Professional Engineer, and pursuant to Section 57.10 of the 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 Licensed 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 remediation of the occurrence has been completed; and (3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety, and the

Rockford • 4302 N. Main St., Rockford, IL 61103 • (815) 987-7760

Elgin • 595 S. State, Elgin, IL 60123 • (847) 608-3131

Bureau of Land – Peoria • 7620 N. University St., Peoria, IL 61614 • (309) 693-5462

Collinsville • 2009 Mall Street, Collinsville, IL 62234 • (618) 346-5120

Des Plaines • 9511 W. Harrison St., Des Plaines, IL 60016 • (847) 294-4000

Peoria • 5415 N. University St., Peoria, IL 61614 • (309) 693-5463

Champaign • 2125 S. First St., Champaign, IL 61820 • (217) 278-5800

Marion • 2309 W. Main St., Suite 116, Marion, IL 62959 • (618) 993-7200

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environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following parties:

1. Shell Oil Products US
, the owner or operator of the underground storage tank system(s).
2. Any parent corporation or subsidiary of such owner or operator.
3. 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.
4. Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.
5. Any mortgagee or trustee of a deed of trust of such owner or operator.
6. Any successor-in-interest of such owner or operator.
7. 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.
8. Any heir or devisee of such owner or operator.
9. An owner of a parcel of real property to the extent that this Letter applies to the occurrence on that parcel.

This Letter and all attachments, including but not limited to the Leaking Underground Storage Tank Environmental Notice, must be filed within 45 days of receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the county in which the above-referenced site is located. In addition, the Groundwater Ordinance (photocopy attached) must be filed as an attachment of this Letter with the Office of the Recorder or Registrar of Titles 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 it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded, an accurate and official 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 of this Letter be the first page of the instrument filed.

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CONDITIONS AND TERMS OF APPROVAL

LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. The remediation objectives for the above-referenced site, more particularly 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 (35 Ill. Adm. Code 742) rules.
2. As a result of the release from the underground storage tank system(s) associated with the above-referenced incident, the above-referenced site, more particularly 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: The groundwater under the site shall not be used as a potable water supply.
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 No Further Remediation 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. No person shall construct, install, maintain, or utilize a potable water supply well. In accordance with Section 3.65 of the Act, "potable" means generally fit for human consumption in accordance with accepted water supply principles and practices.

Engineering: None.

Institutional: This Letter shall be recorded as a permanent part of the chain of title for the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter.

Groundwater Use Ordinance

The Memorandum of Understanding (MOU) between the City of Chicago, Illinois and the Environmental Protection Agency effectively prohibits the installation of potable water supply wells (and the use of such

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wells) and is an acceptable institutional control under the following conditions:

Each affected or potentially affected (as shown through contaminant modeling) property owner and the City of Chicago must receive written notification from the owner or operator desiring to use the ordinance as an institutional control that groundwater remediation objectives have been approved by the Illinois EPA. Written proof of this notification shall be submitted to the Illinois EPA in accordance with 35 Ill. Adm. Code 742.1015(b) and (c) within 45 days from the date this Letter is recorded. The notification shall include:

- a. The name and address of the unit of local government;
- b. The citation of the ordinance used as an institutional control in this Letter;
- c. A description of the property being sent notice by adequate legal description or by reference to a plat showing the boundaries;
- d. A statement that the ordinance restricting the groundwater use was used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
- e. A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
- f. A statement as to where more information may be obtained regarding the ordinance.

The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:

- a. Modification of the reference ordinance to allow potable uses of groundwater.
- b. Approval of a site-specific request, such as a variance, to allow use of groundwater at the site.
- c. Violation of the terms of a recorded institutional control.

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As a part of its corrective action, the leaking underground storage tank site has relied upon The Memorandum of Understanding (MOU) between the City of Chicago, Illinois and the Environmental Protection Agency that prohibits potable uses of groundwater as defined therein.

Highway Authority Agreement

The City of Chicago agrees, through the use of a Highway Authority Agreement, to allow contaminated groundwater and/or soils to remain beneath its highway right-of-way adjacent to the site located at 3181 N. Milwaukee Avenue. Specifically, as shown on the attached map, contamination will remain in the right-of-way for North Milwaukee Avenue as indicated in the Highway Authority Agreement. The Highway Authority agrees to limit access to soil contamination under the highway right-of-way that is contaminated above residential Tier 1 soil remediation objectives. A copy of the Highway Authority Agreement can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to the Bureau of Land, FOIA Unit as detailed elsewhere in this letter. Questions regarding the Highway Authority Agreement should be directed to:

Department of the Environment
Attention: Raul Valdivia
30 N. LaSalle Street
25th Floor
Chicago, Illinois 60602

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

OTHER TERMS

6. Any contaminated soil or groundwater removed or excavated from, or disturbed at, the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, must be handled in accordance with all applicable laws and regulations under 35 Ill. Adm. Code Subtitle G.

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7. Further information regarding the above-referenced 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 35 Ill. Adm. Code 734.720, should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide Notice of Voidance to the owner or operator of the leaking underground storage tank system(s) associated with the above-referenced incident and the current title holder of the real estate on which the tanks were located, at their last known addresses. The notice shall specify the cause for the voidance, explain the provisions for appeal, and describe the facts in support of the voidance. 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 requirements of 35 Ill. Adm. Code 734.715(c) and the provisions of the MOA;
- 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.

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Submit an accurate and official copy of this Letter, as recorded, to:

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

If you have any questions or need further assistance, please contact the Illinois EPA project manager, James K. Malcom, at 217-524-9140.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC: JRM

Attachments: Leaking Underground Storage Tank Environmental Notice
Legal Description
Site Map
Chicago Groundwater Ordinance

cc: True North Energy, LLC
BOL File

Property of Cook County Clerk's Office

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City of Chicago
Richard M. Daley, Mayor

Department of Environment

Suzanne Malec-McKenna
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.cityofchicago.org>

September 17, 2009

John Robbins
Project Manager
HSE/Science and Engineering
Shell Oil Products US
603 Diehl Road, Suite 103
Naperville, Illinois 60563

Subject: Executed Highway Authority Agreement
Chicago/Shell Service Station # 136988
3181 North Milwaukee Avenue
Chicago, Illinois.
LUST Incident # 20080987

Dear Mr. Robbins:

Accompanying this letter you will find the subject Highway Authority Agreement. Please forward a copy of the No Further Action Letter issued by the Illinois Environmental Protection Agency for the site to my attention upon receipt.

The Owner/Operator must record the Highway Authority Agreement with the Cook County Recorder of Deeds. Within thirty (30) days of this recording, the Owner/Operator must provide the Department of Environment a copy of the Agreement that has been stamped to indicate that it has been recorded. This should be sent to my attention.

If you have any questions, please call me at (312) 744-3162.

Sincerely,

Raul Valdivia, Ph. D.
Chief Engineer, Storage Tank Section

Enclosure

cc: Suzanne Malec-McKenna, Kevin Schnoes, DOE
Victor Moreno, Michael Simon, Mark Delin - CDOT
Basil Rhymes - Sewers

RV:rv\exehaa.wpd

cc: Ges 10/9/09



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Site PIN #13-26-103-003-0000

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

This Agreement is entered into this 22nd day of September, 2009 pursuant to the Municipal Code of the City of Chicago Section 2-30-030 ("Code") by and among Shell Oil Products US ("Owner/Operator"), together referred to herein as "Owner/Operator," and the City of Chicago ("City"), as follows:

WHEREAS, Owner/Operator is pursuing corrective action at a site and in the right-of-way adjacent to the site located at 3181 North Milwaukee Avenue ("Site") and legally described in Attachment A; and

WHEREAS, attached as Attachment B 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 35 Ill. Admin. Code Section 742; and

WHEREAS, also attached as Attachment C 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; and

WHEREAS, under 35 Ill. Admin. Code 742.1020, the use of risk-based, site-specific remediation objectives in the right-of-way require entry of the City into a Highway Authority Agreement Memorandum of Agreement ("Highway Authority Agreement"), in lieu of active remediation of the contaminant-impacted soil and/or groundwater; and

WHEREAS, the Owner/Operator has requested that the City enter into a Highway Authority Agreement in the form prescribed by the Illinois Environmental Protection Agency, set forth in Attachment D; and

WHEREAS, the City, as a condition of entering into the Highway Authority Agreement, requires certain covenants on the part of the Owner/Operator in exchange for its agreement to execute that form;

NOW, THEREFORE, the parties agree as follows:

1. The City agrees that it will prohibit by ordinance the use of groundwater as required by Paragraph 8 of the Highway Authority Agreement. This prohibition is ensured in Code Section 11-8-390. The City further agrees that it will limit access to soil as required by Paragraph 9 of the Highway Authority Agreement. This prohibition is ensured through operation of 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.

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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. Except for ordinary maintenance performed on City roadways, the City does not agree to maintain the right-of-way, nor does it guarantee that the right-of-way will continue as a roadway or that the right-of-way will always be maintained as an engineered barrier.

b. This agreement does not in any way limit the City's authority to construct, reconstruct, repair or maintain and operate a right-of-way upon the property identified in the Highway Authority Agreement 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 the Highway Authority Agreement 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 so identifying, investigating, removing, storing, handling or disposing of 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 Illinois Pollution Control 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/Operator thirty days notice and an opportunity to remove or dispose of contaminated soil and/or groundwater, at Owner/Operator'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/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 the release of contaminants 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, and the City shall void the Highway Authority Agreement.

2. The Owner/Operator 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 Attachment C.

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3. Violation of the terms of this Agreement by Owner/Operator, or its successor(s) in interest, may be grounds for avoidance of this Agreement, and avoidance by the City of the Highway Authority Agreement.
4. No violation of a permit by a 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.
5. 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/Operator 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.
6. 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. The Owner/Operator shall cause copies of this agreement and the executed Highway Authority Agreement to be recorded in the office of the Cook County Recorder of Deeds in the chain of title for the Site within 30 days of execution.
7. 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.
8. Written notice and other communications relating to this agreement directed to the City shall be sent to:


Raul Valdivia, Ph.D.
Chief Engineer, UST/LUST Section
Department of Environment
30 N. LaSalle Street
25th Floor
Chicago, IL 60602

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

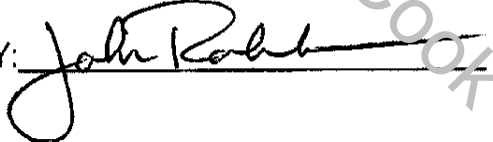
Senior Environmental Engineer
 Shell Oil Products US
 John Robbins
 603 Diehl Road, Suite 103
 Naperville, Illinois 60563

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

BY: 
 Suzanne Malec-McKenna
 Commissioner
 Department of Environment

Date: 9/22/09

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

BY: 

Date: 8/29/09

IN WITNESS WHEREOF, Operator, _____ has caused this Agreement to be signed by its duly authorized representative.

BY: _____

Date: _____

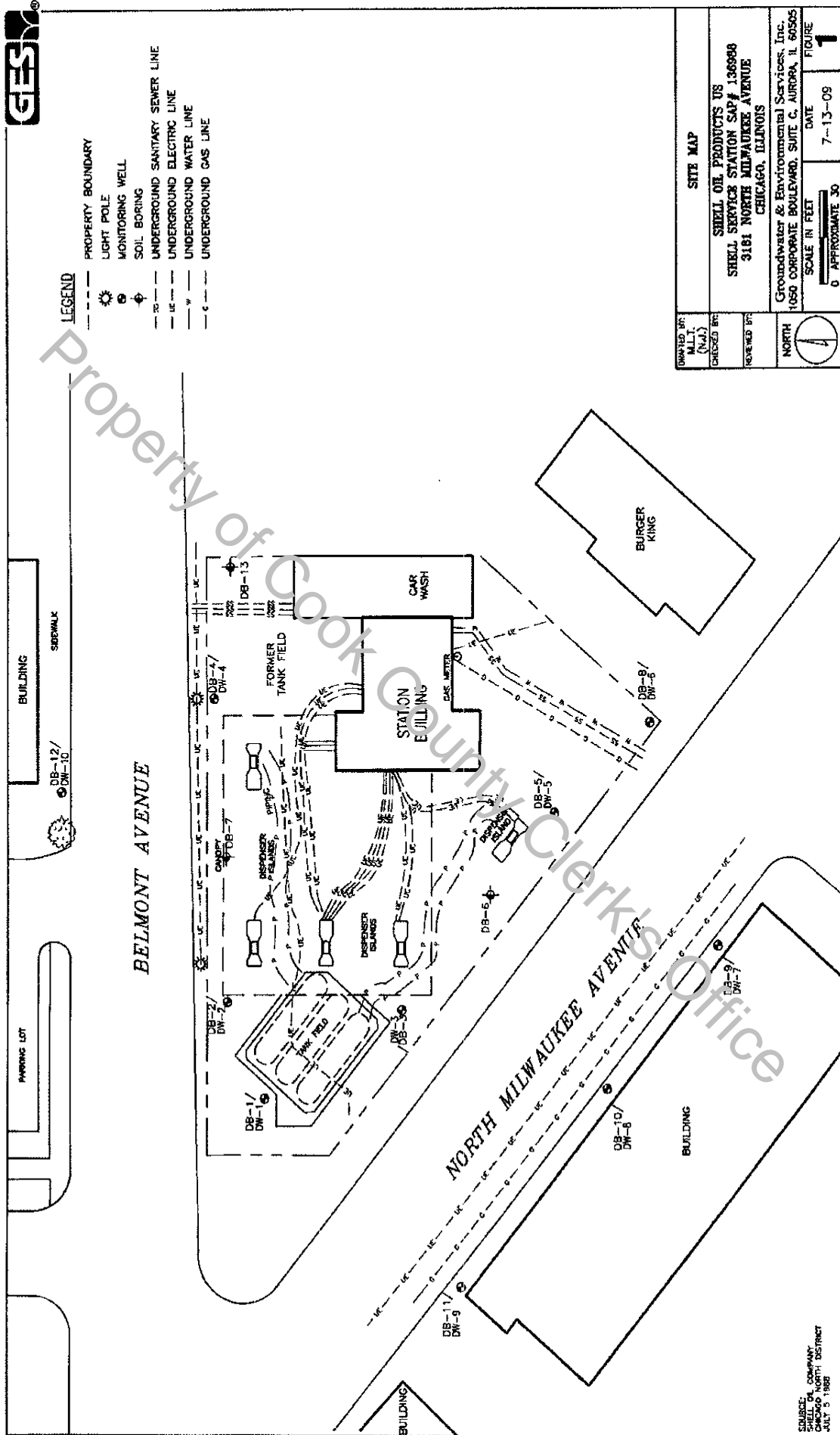
Revised October 26, 2006

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

Tract 85, - 3181 N Milwaukee, Chicago, COOK, WIC 212-1545-9609
Tax Parcel # 13-26-103-003

That part of Lot 3 in Davlin, Kelly and Carroll's Subdivision of the North West quarter of Section 26, Township 40 North, Range 13, East of the Third Principal Meridian described as follows: Beginning at the South East corner of West Belmont Avenue and North Avers Avenue (as opened) which corner is 52 feet East of the point of intersection of the South line of said West Belmont Avenue and the North Easterly line of North Milwaukee Avenue and running thence South along the East line of said North Avers Avenue (as opened) perpendicular to said South line of West Belmont Avenue a distance of 43.88 feet to its intersection with said North Easterly line of North Milwaukee Avenue thence South Easterly along said North Easterly line of North Milwaukee Avenue a distance of 183.54 feet to the Westerly corner of a brick building, thence North Easterly along the North Westerly face of said brick building and along a North Easterly extension of the line of said North Westerly face, a distance of 84.46 feet thence North perpendicular to said South line of West Belmont Avenue a distance of 97.6 feet to said South street line and thence West along said South line of West Belmont Avenue a distance of 194.62 feet to the place of beginning in Cook County, Illinois.

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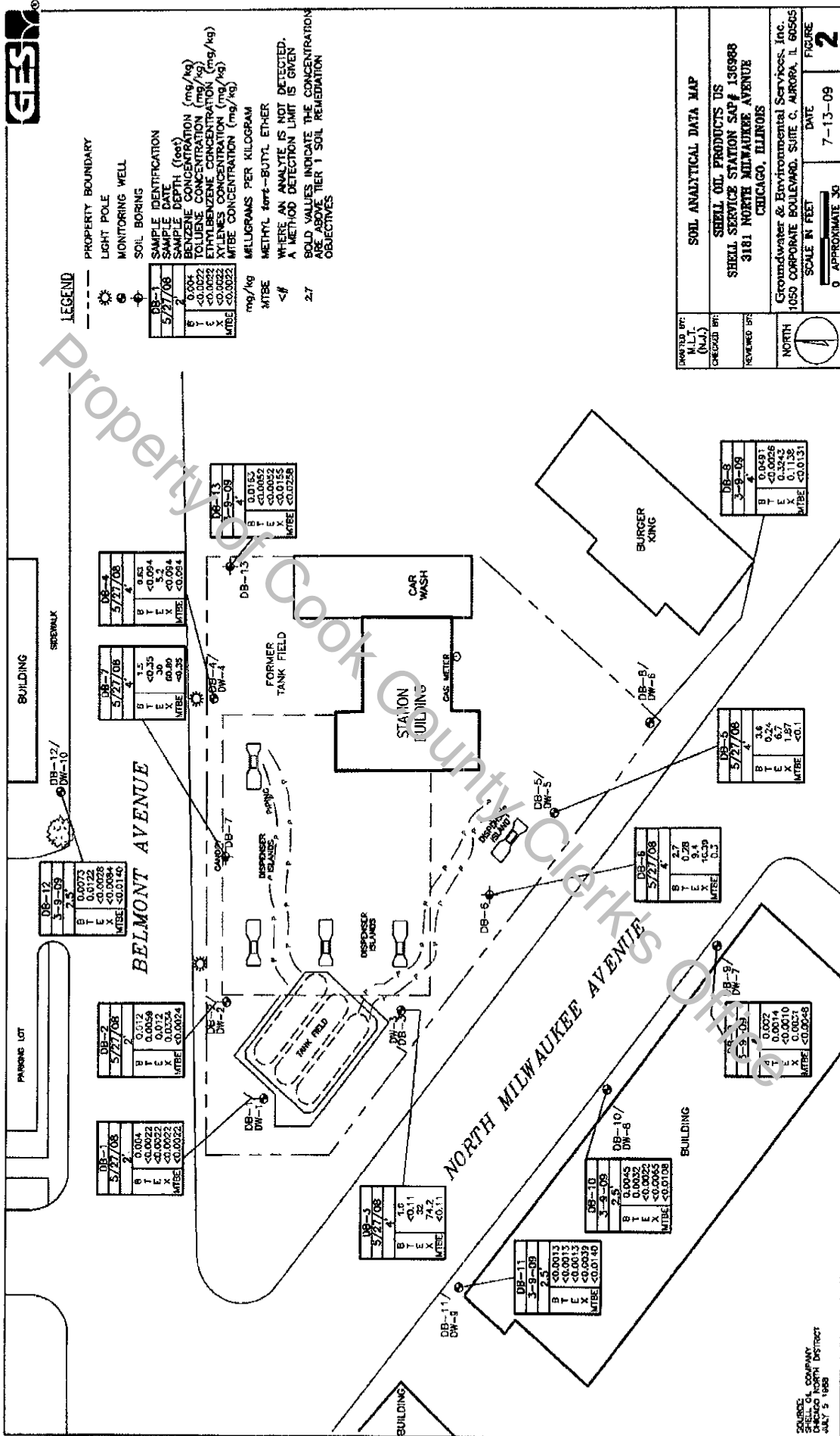
LEGEND

- PROPERTY BOUNDARY
- ☼ LIGHT POLE
- ⊙ MONITORING WELL
- ⊕ SOIL BORING
- UNDERGROUND SANITARY SEWER LINE
- UNDERGROUND ELECTRIC LINE
- UNDERGROUND WATER LINE
- UNDERGROUND GAS LINE

DRAWN BY: ALLI (P.J.C.)	CHECKED BY: (P.J.C.)	REVISIONS BY:	SITE MAP SHELL OIL PRODUCTS US SHELL SERVICE STATION SAP # 136998 3181 NORTH MILWAUKEE AVENUE CHICAGO, ILLINOIS
NORTH Groundwater & Environmental Services, Inc. 1050 CORPORATE BOULEVARD, SUITE C, AURORA, IL 60505			SCALE IN FEET 0 APPROXIMATE 30
DATE 7-13-09			FIGURE 1

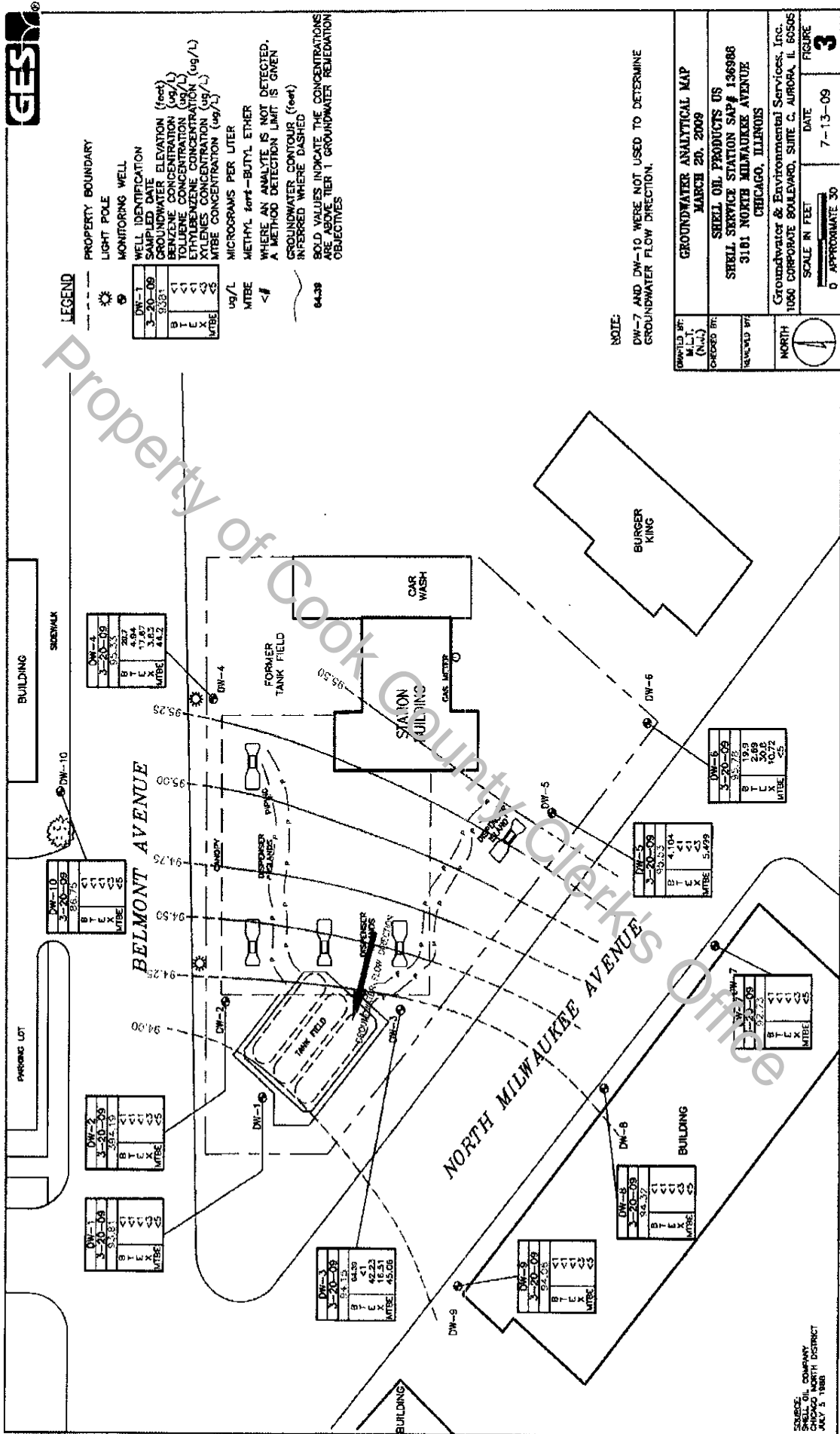
SOURCE: COMPANY
 CHICAGO NORTH DISTRICT
 JULY 5 1998

UNOFFICIAL COPY

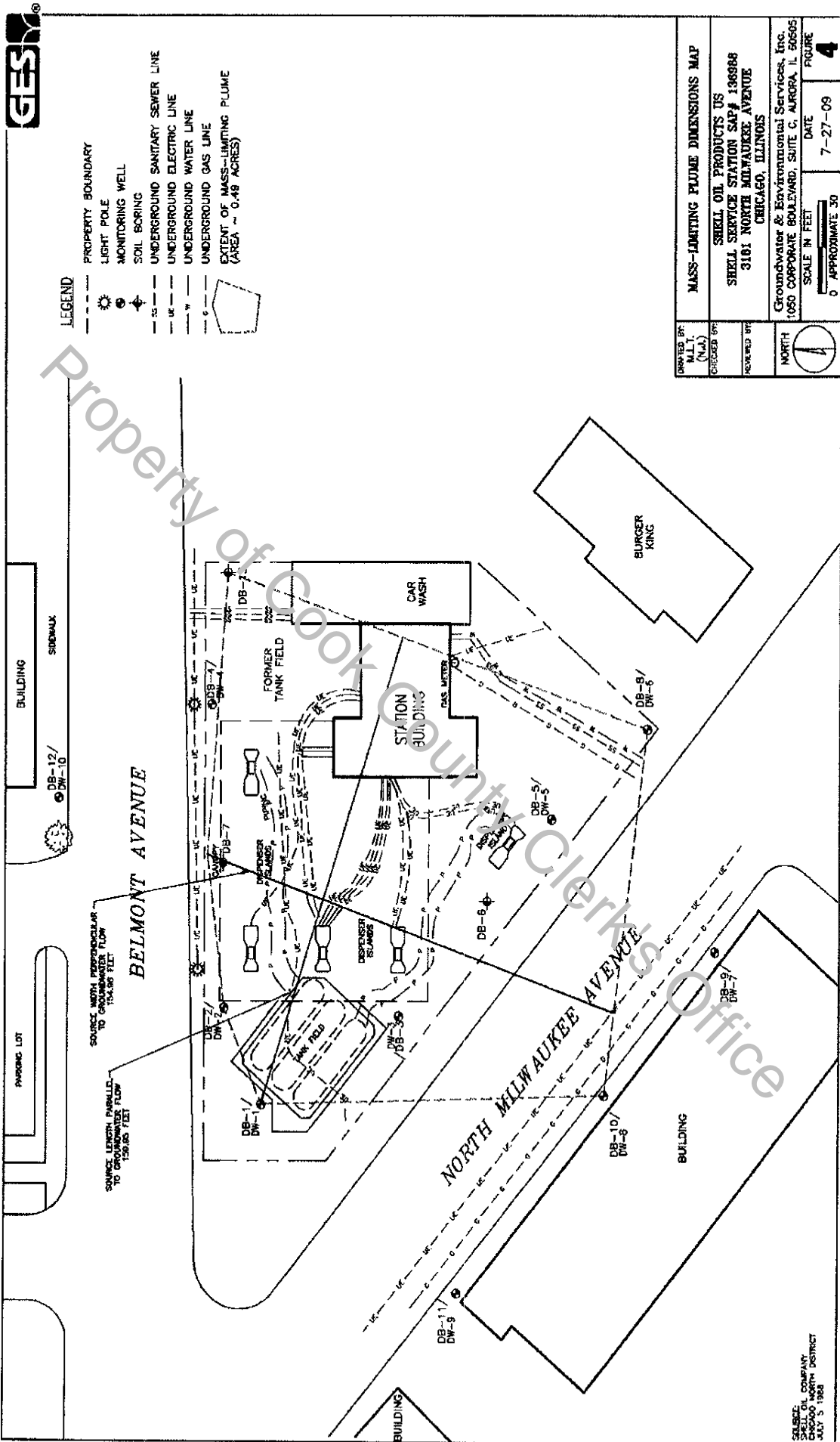


SHELL OIL COMPANY
 CHICAGO NORTH DISTRICT
 JULY 5 1988

UNOFFICIAL COPY



UNOFFICIAL COPY



LEGEND

- PROPERTY BOUNDARY
- LIGHT POLE
- MONITORING WELL
- SOIL BORING
- UNDERGROUND SANITARY SEWER LINE
- UNDERGROUND ELECTRIC LINE
- UNDERGROUND WATER LINE
- UNDERGROUND GAS LINE
- EXTENT OF MASS-LIMITING PLUME (AREA ~ 0.48 ACRES)

DRAWN BY: (NAME)	MASS-LIMITING PLUME DIMENSIONS MAP
CHECKED BY:	SHELL OIL PRODUCTS US
APPROVED BY:	SHELL SERVICE STATION SAP# 136988
	3181 NORTH MILWAUKEE AVENUE
	CHICAGO, ILLINOIS
	Groundwater & Environmental Services, Inc.
	1050 CORPORATE BOULEVARD, SUITE C, AURORA, IL 60505
NORTH	SCALE IN FEET
	0 APPROXIMATE 30
	DATE
	7-27-09
	FIGURE
	4

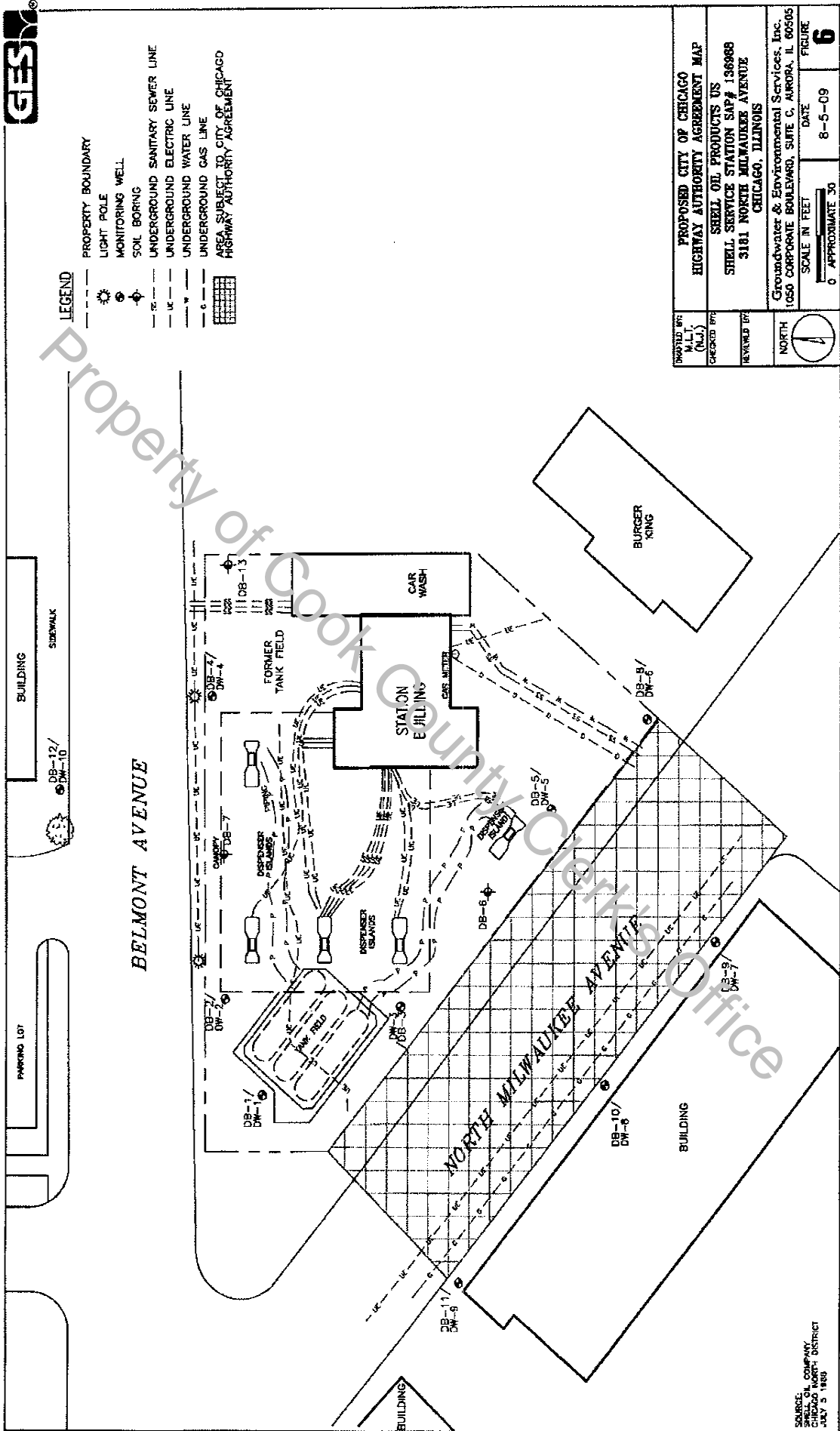
SOURCE:
SHELL OIL COMPANY
SHELL OIL NORTH DISTRICT
MAY 5, 1988

UNOFFICIAL COPY



LEGEND

- PROPERTY BOUNDARY
- LIGHT POLE
- MONITORING WELL
- SOIL BORING
- UNDERGROUND SANITARY SEWER LINE
- UNDERGROUND ELECTRIC LINE
- UNDERGROUND WATER LINE
- UNDERGROUND GAS LINE
- AREA SUBJECT TO CITY OF CHICAGO HIGHWAY AUTHORITY AGREEMENT



PROJECT NO. (N.C.)	PROPOSED CITY OF CHICAGO HIGHWAY AUTHORITY AGREEMENT MAP
CHECKED BY	SHELL OIL PRODUCTS US SHELL SERVICE STATION SAP# 136989 3181 NORTH MILWAUKEE AVENUE CHICAGO, ILLINOIS
REVISIONS BY	Groundwater & Environmental Services, Inc. 1050 CORPORATE BOULEVARD, SUITE C, AURORA, IL 60505
NORTH	SCALE IN FEET 0 APPROXIMATE 30
	DATE 8-5-09
	FIGURE 6

SCALE COMPANY
CHICAGO NORTH DISTRICT
JULY 5 1989

UNOFFICIAL COPY**HIGHWAY AUTHORITY AGREEMENT**

This Agreement is entered into this ^{22nd} day of September, 2009 pursuant to 35 Ill. Adm. Code 742.1020 by and between the owner/operator of the tank (1) Shell Oil Products US (Shell) ("Owner/Operator") and (2) City of Chicago ("Highway Authority"), collectively known as the "Parties."

WHEREAS, Shell is the owner or operator of one or more leaking underground storage tanks presently or formerly located at 3181 North Milwaukee Avenue, Chicago, Cook County, Illinois ("the Site");

WHEREAS, as a result of one or more releases of contaminants from the above referenced underground storage tanks ("the Release(s)"), soil and/or groundwater contamination at the Site exceeds the Tier 1 residential remediation objectives of 35 Ill. Adm. Code 742;

WHEREAS, the soil and/or groundwater contamination exceeding Tier 1 residential remediation objectives extends or may extend into the Highway Authority's right-of-way;

WHEREAS, the Owner/Operator is conducting corrective action in response to the Release(s);

WHEREAS, the Parties desire to prevent groundwater beneath the Highway Authority's right-of-way that exceeds Tier 1 remediation objectives from use as a supply of potable or domestic water and to limit access to soil within the right-of-way that exceeds Tier 1 residential remediation objectives so that human health and the environment are protected during and after any access;

NOW, THEREFORE, the Parties agree as follows:

1. The recitals set forth above are incorporated by reference as if fully set forth herein.
2. The Illinois Emergency Management Agency has assigned incident number(s) 20080987 to the Release(s).
3. Attached as Exhibit A is a scaled map(s) prepared by the Owner/Operator that shows the Site and surrounding area and delineates the current and estimated future extent of soil and groundwater contamination above the applicable Tier 1 residential remediation objectives as a result of the Release(s).
4. Attached as Exhibit B is a table(s) prepared by the Owner/Operator that lists each contaminant of concern that exceeds its Tier 1 residential remediation objective, its Tier 1 residential remediation objective, and its

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concentrations within the zone where Tier 1 residential remediation objectives are exceeded. The locations of the concentrations listed in Exhibit B are identified on the map(s) in Exhibit A.

5. Attached as Exhibit C is a scaled map prepared by the Owner/Operator showing the area of the Highway Authority's right-of-way that is governed by this agreement ("Right-of-Way"). Because Exhibit C is not a surveyed plat, the Right-of-Way boundary may be an approximation of the actual Right-of-Way lines.
6. Because the collection of samples within the Right-of-Way is not practical, the Parties stipulate that, based on modeling, soil and groundwater contamination exceeding Tier 1 residential remediation objectives does not and will not extend beyond the boundaries of the Right-of-Way.
7. The Highway Authority stipulates it has jurisdiction over the Right-of-Way that gives it sole control over the use of the groundwater and access to the soil located within or beneath the Right-of-Way.
8. The Highway Authority agrees to prohibit within the Right-of-Way all potable and domestic uses of groundwater exceeding Tier 1 residential remediation objectives.
9. The Highway Authority further agrees to limit access by itself and others to soil within the Right-of-Way exceeding Tier 1 residential remediation objectives. Access shall be allowed only if human health (including worker safety) and the environment are protected during and after any access. The Highway Authority may construct, reconstruct, improve, repair, maintain and operate a highway upon the Right-of-Way, or allow others to do the same by permit. In addition, the Highway Authority and others using or working in the Right-of-Way under permit have the right to remove soil or groundwater from the Right-of-Way and dispose of the same in accordance with applicable environmental laws and regulations. The Highway Authority agrees to issue all permits for work in the Right-of-Way and make all existing permits for work in the Right-of-Way subject to the following or a substantially similar condition:

As a condition of this permit the permittee shall request the office issuing this permit to identify sites in the Right-of-Way where a Highway Authority Agreement governs access to soil that exceeds the Tier 1 residential remediation objectives of 35 Ill. Adm. Code 742. The permittee shall take all measures necessary to protect human health (including worker safety) and the environment during and after any access to such soil.

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10. This agreement shall be referenced in the Agency's no further remediation determination issued for the Release(s).
11. The Agency shall be notified of any transfer of jurisdiction over the Right-of-Way at least 30 days prior to the date the transfer takes effect. This agreement shall be null and void upon the transfer unless the transferee agrees to be bound by this agreement as if the transferee were an original party to this agreement. The transferee's agreement to be bound by the terms of this agreement shall be memorialized at the time of transfer in a writing ("Rider") that references this Highway Authority Agreement and is signed by the Highway Authority, or subsequent transferor, and the transferee.
12. This agreement shall become effective on the date the Agency issues a no further remediation determination for the Release(s). It shall remain effective until the Right-of-Way is demonstrated to be suitable for unrestricted use and the Agency issues a new no further remediation determination to reflect there is no longer a need for this agreement or until the agreement is otherwise terminated or voided.
13. In addition to any other remedies that may be available, the Agency may bring suit to enforce the terms of this agreement or may, in its sole discretion, declare this agreement null and void if any of the Parties or any transferee violates any term of this agreement. The Parties or transferee shall be notified in writing of any such declaration.
14. This agreement shall be null and void if a court of competent jurisdiction strikes down any part or provision of the agreement.
15. This agreement supersedes any prior written or oral agreements or understandings between the Parties on the subject matter addressed herein. It may be altered, modified or amended only upon the written consent and agreement of the Parties.
16. Any notices or other correspondence regarding this agreement shall be sent to the Parties at following addresses:

Manager, Division of Remediation Management
 Bureau of Land
 Illinois Environmental Protection Agency
 P.O. Box 19276
 Springfield, Illinois 62974-927

Chief Engineer, Storage Tank Section
 City of Chicago
 Raul Valdivia, Ph.D.
 30 North LaSalle Street, Suite 2500
 Chicago, Illinois 60602


Senior Environmental Engineer
 Shell Oil Products US
 John Robbins
 603 Diehl Road, Suite 103
 Naperville, Illinois 60563

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IN WITNESS WHEREOF, the Parties have caused this agreement to be signed by their duly authorized representatives.

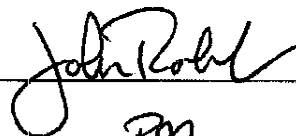
CITY OF CHICAGO

Date: 9/22/09


Suzanne Malec-McKenna
Commissioner
Department of Environment

OWNER/OPERATOR

Date: 8/21/09

By: 
Its: PM
Title

Property of Cook County Clerk's Office

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CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT FORM NO. DOE.ROW.07

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 is available for review at the 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). Contact Rahmat Begum (312) 744 - 3152 for an appointment. This file must be reviewed and the remainder of this form completed before the permit can be issued. **Please note that for some locations, additional health and safety procedures may be required by law.**

Please complete the following:

Permit No. _____

Date _____

Site Address _____

Work Location (describe exact site location):

Nature of Work

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 ensure that all work at the subject site and adjacent right-of-way, and any Monitoring required including but not limited to petroleum contamination, 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. I will ensure that the results of any monitoring and/or surveying conducted shall be provided to the Department of Environment within two (2) weeks of their completion.

Signature _____

Name (print) _____

Company _____

Address _____

Phone No. _____

Prime Contractor/Contact _____

Address _____

Phone _____

Safety Officer/Phone _____

Signed by Department of Environment _____

Date _____

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