



Doc#: 1021110041 Fee: \$60.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/30/2010 12:54 PM Pg: 1 of 13

PREPARED BY:

Name: Thomas Moro
Johnny's Ice House

Address: 1350 West Madison Street
Chicago, Illinois 60607

RETURN TO:

Name: Thomas Moro
Johnny's Ice House

Address: 1350 West Madison Street
Chicago, Illinois 60607

THE ABOVE SPACE FOR RECORDER'S OFFICE

This Environmental No Further Remediation Letter must be submitted by the remediation applicant within 45 days of its receipt, to the Office of the Recorder of Cook County.

Illinois State EPA Number: 0316275326

Johnny's Ice House, the Remediation Applicant, whose address is 1350 West Madison Street, Chicago, Illinois 60607, has performed investigative and/or remedial activities for the remediation site depicted on the attached Site Base Map and identified by the following:

1. Legal description or Reference to a Plat Showing the Boundaries:

Parcel 1: That part of the Subdivision of Lots 26 to 39, inclusive, of Pollack's Subdivision of 4 acres in the South Half of the Southeast Quarter of Section 12, Township 39 North, Range 13 East of the Third Principal Meridian, and Lots 3 to 6, inclusive of Half Acre in said Southeast Quarter, and also Lots 66 and 67 and West 8 feet of Lot 65 and 68 in the C.G.E. Prussings Subdivision of the Southwest Block of 33.81 acres in the South Half of the Southeast Quarter of said Section 12 and vacated alley between said Lots, described as follows: Beginning at the Southeast corner of said Subdivision; thence North 90 degrees 00 minutes 00 second West along the South line of said Subdivision 201.64 feet; thence North 0 degrees 16 minutes 29 seconds West 126.09 feet to the South line of said Vacated Alley; thence South 89 degrees 58 minutes 17 seconds East along the South line of said Vacated Alley 201.65 feet to the East line of said Subdivision; thence South 0 degrees 16 minutes 08 seconds East along the East line of said Subdivision 125.99 feet to the Point of Beginning, in Cook County, Illinois. Said parcel containing 0.583 acres (25,415 square feet) more or less.

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Parcel 2: Lots 69 through 73, both included, and the West 2.00 feet of Lot 74, in C.G.E. Prussings Subdivision of Southwest Block 1 of 33.81 acres in the South Half of the Southeast Quarter of Section 12, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois. Said parcel containing 0.353 acres (15,377 square feet) more or less.

Vacated Alley: That part of the 16 foot alley lying West of the West line of Lot 69, in C.G.E. Prussing's Subdivision of the S.W. Block of the E. 33.81 acres of the South Half of the Southeast Quarter of Section 12, Township 39 North, Range 13 East of the Third Principal Meridian, and lying North of the South line of said Lot 69 extended West, and South of the North line of said Lot 69 extended West, in Cook County, Illinois. Said parcel containing 0.046 acres (2,016 square feet) more or less.

2. Common Address: 2546-2606 West Madison, Chicago, Illinois 60612
3. Real Estate Tax Index/Parcel Index Number: 16-12-427-007-000, 16-12-427-049-0000, 16-12-427-050-0000, 16-12-427-064-0000, and 16-12-427-007-0000
4. Remediation Site Owner: Johnny's Ice House
5. Land Use: Industrial/Commercial
6. Site Investigation: Focused

See NFR letter for other terms.

(Illinois EPA Site Remediation Program Environmental Notice)

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TABLE A: REGULATED SUBSTANCES OF CONCERN

**0316275326 – Cook County
Chicago/Johnny's Ice House West
Site Remediation Program
No Further Remediation letter**

Volatile Organic Compounds	
CAS No.	Compound Name
67-64-1	Acetone
71-43-2	Benzene
75-27-4	Bromodichloromethane
75-25-2	Bromoform
74-83-9	Bromomethane
78-93-3	2-Butanone
75-15-0	Carbon Disulfide
56-23-5	Carbon Tetrachloride
108-90-7	Chlorobenzene
75-00-3	Chloroethane
67-66-3	Chloroform
74-87-3	Chloromethane
124-48-1	Dibromochloromethane
75-34-3	1,1-Dichloroethane
107-06-2	1,2-Dichloroethane
75-35-4	1,1-Dichloroethene
78-87-5	1,2-Dichloropropane
10061-02-6	trans-1,3-Dichloropropene
10061-01-5	cis-1,3-Dichloropropene
100-41-4	Ethylbenzene
591-78-6	2-Hexanone
75-09-2	Methylene Chloride
108-10-1	4-Methyl-2-Pentanone
1634-04-4	Methyl tert-butyl ether
100-42-5	Styrene
79-34-5	1,1,2,2-Tetrachloroethane
127-18-4	Tetrachloroethene
71-55-6	1,1,1-Trichloroethane
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethene
108-88-3	Toluene
75-01-4	Vinyl Chloride
1330-20-7	Xylenes (total)
156-60-5	trans-1,2-Dichloroethene
156-59-2	cis-1,2-Dichloroethene

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Polynuclear Aromatic Compounds (PNAs)	
CAS No.	Compound Name
208-96-8	Acenaphthalene
83-32-9	Acenaphthene
120-12-7	Anthracene
56-55-3	Benzo(a)anthracene
205-99-2	Benzo(b)fluoranthene
207-08-9	Benzo(k)fluoranthene
191-24-2	Benzo(g,h,i)perylene
50-32-8	Benzo(a)pyrene
218-01-9	Chrysene
53-70-3	Dibenzo(a,h)anthracene
206-44-0	Fluoranthene
86-73-7	Fluorene
193-39-5	Indeno(1,2,3-cd)pyrene
91-20-3	Naphthalene
85-01-8	Phenanthrene
129-00-0	Pyrene

RCRA Metals	
CAS No.	Compound Name
7440-38-2	Arsenic
7440-39-3	Barium
7440-43-9	Cadmium
7440-47-3	Chromium
7439-92-1	Lead
7439-97-6	Mercury
7782-49-2	Selenium
7440-22-4	Silver

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

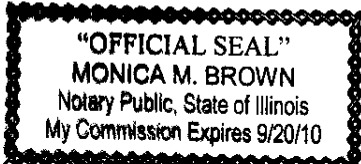
Where the Remediation Applicant (RA) is not the sole owner of the remediation site, the RA shall obtain the certification by original signature of each owner, or authorized agent of the owner(s), of the remediation site or any portion thereof who is not an RA. The property owner(s), or the duly authorized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

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

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

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

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

Property Owner Information	
Owner's Name: <u>Thomas A. Moro</u>	
Title: <u>Owner</u>	
Company: <u>Johannys Ice House</u>	
Street Address: <u>1350 W. Madison</u>	
City: <u>Chicago</u> State: <u>IL</u> Zip Code: <u>60607</u> Phone: <u>312-226-5555</u>	
Site Information	
Site Name: <u>Johannys Ice House West</u>	
Site Address: <u>2550 W. Madison</u>	
City: <u>Chicago</u> State: <u>IL</u> Zip Code: <u>60612</u> County: <u>Cook</u>	
Illinois inventory identification number: <u>0316275326</u>	
Real Estate Tax Index/Parcel Index No. <u>16-12-427-007-000, 049-000, 050,000, 064-000, 007-000</u>	
I hereby certify that I have reviewed the attached No Further Remediation Letter and that I accept the terms and conditions and any land use limitations set forth in the letter.	
Owner's Signature: <u>Thomas A. Moro</u>	Date: <u>7/26/10</u>
SUBSCRIBED AND SWORN TO BEFORE ME this <u>26</u> day of <u>July</u> , 20 <u>10</u>	
<u>Monica M. Brown</u> Notary Public	

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



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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) 782-6761

July 21, 2010

CERTIFIED MAIL

7008 1830 0001 4712 8200

Thomas Moro
Johnny's Ice House
1350 West Madison Street
Chicago, Illinois 60607

Re: 0316275326--Cook County
Chicago/Johnny's Ice House West
Site Remediation/Technical Reports
No Further Remediation Letter

0316275323—Cook County
Chicago/City of Chicago
LUST/Technical Reports
No Further Remediation Letter

Dear Mr. Moro:

The *Remedial Action Completion Report Focused Site Investigation Report/Remedial Action Plan* (May 18, 2010 / Log No.10-44825), as prepared by AES Due Diligence, Inc. for the above referenced Remediation Site, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA"). This Report demonstrates that the remedial action was completed in accordance with the *Focused Site Investigation Report/Remedial Action Plan* (May 19, 2009/ Log No.09-41484) and 35 Illinois Administrative Code Parts 740 and 742.

The Remediation Site, consisting of 0.982 acres, is located at 2546-2606 West Madison Street, Chicago, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form (May 19, 2009/Log No. 09-41484), is Johnny's Ice House.

This focused No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment for the specified recognized environmental conditions so long as the Site is utilized in accordance with the terms of this Letter.

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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Conditions and Terms of Approval

Level of Remediation and Land Use Limitations

- 1) The recognized environmental conditions, as characterized by the focused site investigation, consist of the following:
 - a) Regulated substances of concern that have been successfully addressed are detailed in the attached Table A.
- 2) The Remediation Site is restricted to Industrial/Commercial land use.
- 3) The land use specified in this Letter may be revised if:
 - a) Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

Preventive, Engineering, and Institutional Controls

- 4) The implementation and maintenance of the following controls are required as part of the approval of the remediation objectives for this Remediation Site.

Preventive Controls:

- 5) At a minimum, a safety plan should be developed to address possible worker exposure in the event that any future excavation and construction activities may occur within the contaminated soil. Any excavation within the contaminated soil will require implementation of a safety plan consistent with NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, OSHA regulations (particularly in 29 CFR 1910 and 1926), state and local regulations, and other USEPA guidance. Soil excavated below four feet must be returned to the same depth from which it was excavated or properly managed or disposed in accordance with applicable state and federal regulations.

Engineering Controls:

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

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- 8) The concrete cap barrier (pavement), as shown in the attached Site Base Map, must remain over the contaminated soils. This concrete cap barrier (pavement) must be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.
- 9) The building, as shown in the attached Site Base Map, must remain over the contaminated soils. This building must be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media:

Institutional Controls:

- 10) Section 11-8-390 of the Municipal Code of Chicago (Potable Water Wells), effectively prohibits the installation and the use of potable water supply wells and is an acceptable institutional control under the following conditions:
 - a) The Remediation Applicant shall provide written notification to the City of Chicago and to owner(s) of all properties under which groundwater contamination attributable to the Remediation Site exceeds the objectives approved by the Illinois EPA. The notification shall include:
 - i) The name and address of the local unit of government;
 - ii) The citation of Section 11-8-390;
 - iii) A description of the property for which the owner is being sent notice by adequate legal description or by reference to a plat showing the boundaries;
 - iv) A statement that the ordinance restricting the groundwater use has been used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
 - v) A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
 - vi) A statement as to where more information may be obtained regarding the ordinance.
 - b) Written proof of this notification shall be submitted to the Illinois EPA within forty-five (45) days from the date this Letter is recorded to.

Robert E. O'Hara
 Illinois Environmental Protection Agency
 Bureau of Land/RPMS
 1021 North Grand Avenue East
 Post Office Box 19276
 Springfield, IL 62794-9276

- c) The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:
 - i) Modification of the referenced ordinance to allow potable uses of groundwater;

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- ii) Approval of a site-specific request, such as a variance, to allow use of groundwater at the Remediation Site or at the affected properties;
- iii) Failure to provide written proof to the Illinois EPA within forty-five (45) days from the date this Letter is recorded of written notification to the City of Chicago and affected property owner(s) of the intent to use Section 11-8-390 of the Municipal Code of Chicago (Potable Water Wells), as an institutional control at the Remediation Site; and
- iv) Violation of the terms and conditions of this No Further Remediation letter.

Other Terms

- 11) Pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), all statutory and regulatory corrective action requirements applicable to the occurrence involving Leaking UST Incident Number 2009-0315 have been completed. This Letter constitutes the Illinois EPA's final decision regarding the above-referenced Leaking UST incident.
- 12) Where a groundwater ordinance is used to assure long-term protection of human health (as identified under paragraph 10 of this Letter), the Remediation Applicant must record a copy of the groundwater ordinance adopted and administered by a unit of local government along with this Letter.
- 13) Where the Remediation Applicant is not the sole owner of the Remediation Site, the Remediation Applicant shall complete the attached *Property Owner Certification of the No Further Remediation Letter under the Site Remediation Program Form*. This certification, by original signature of each property owner, or the authorized agent of the owner(s), of the Remediation Site or any portion thereof who is not a Remediation Applicant shall be recorded along with this Letter.
- 14) Further information regarding this Remediation Site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attn: Freedom of Information Act Officer
Bureau of Land-#24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
- 15) Pursuant to Section 58.10(f) of the Act (415 ILCS 5/58.10(f)), should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide notice to the current title holder and to the Remediation Applicant at the last known address. The notice shall specify the cause for the 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 the Letter under Sections 58.10(e)(1)-(7) of the Act (415 ILCS 5/58.10(e)(1)-(7)) include, but shall not be limited to:
 - a) Any violation of institutional controls or the designated land use restrictions;

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- b) The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c) The disturbance or removal of contamination that has been left in-place in accordance with the Remedial Action Plan. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;
 - d) The failure to comply with the recording requirements for this Letter;
 - e) Obtaining the Letter by fraud or misrepresentation;
 - f) Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment;
 - g) The failure to pay the No Further Remediation Assessment Fee within forty-five (45) days after receiving a request for payment from the Illinois EPA;
 - h) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within forty-five (45) days after receiving a request for payment from the Illinois EPA.
- 16) Pursuant to Section 58.10(d) of the Act, this Letter shall apply in favor of the following persons:
- a) Johnny's Ice House;
 - b) The owner and operator of the Remediation Site;
 - c) Any parent corporation or subsidiary of the owner of the Remediation Site;
 - d) Any co-owner, either by joint-tenancy, right of survivorship, or any other party sharing a relationship with the owner of the Remediation Site;
 - e) Any holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, involving the Remediation Site;
 - f) Any mortgagee or trustee of a deed of trust of the owner of the Remediation Site or any assignee, transferee, or any successor-in-interest thereto;
 - g) Any successor-in-interest of the owner of the Remediation Site;
 - h) Any transferee of the owner of the Remediation Site whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest;
 - i) Any heir or devisee of the owner of the Remediation Site;

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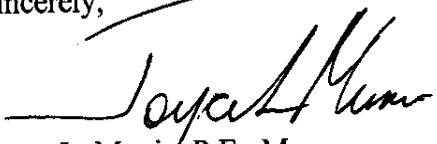
- j) Any financial institution, as that term is defined in Section 2 of the Illinois Banking Act and to include the Illinois Housing Development Authority, that has acquired the ownership, operation, management, or control of the Remediation Site through foreclosure or under the terms of a security interest held by the financial institution, under the terms of an extension of credit made by the financial institution, or any successor-in-interest thereto; or
- k) In the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, and a trustee, executor, administrator, guardian, receiver, conservator, or other person who holds the remediated site in a fiduciary capacity, or a transferee of such party.
- 17) This letter, including all attachments, must be recorded as a single instrument within forty-five (45) days of receipt with the Office of the Recorder of Cook County. For recording purposes, the Illinois EPA Site Remediation Program Environmental Notice attached to this Letter should be the first page of the instrument filed. This Letter shall not be effective until officially recorded by the Office of the Recorder of Cook County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Johnny's Ice House West property.
- 18) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Cook County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

Robert E. O'Hara
 Illinois Environmental Protection Agency
 Bureau of Land/RPMS
 1021 North Grand Avenue East
 Post Office Box 19276
 Springfield, IL 62794-9276

- 19) In accordance with Section 58.10(g) of the Act, a No Further Remediation Assessment Fee based on the costs incurred for the Remediation Site by the Illinois EPA for review and evaluation services will be applied in addition to the fees applicable under the Review and Evaluation Services Agreement. Request for payment of the No Further Remediation Assessment Fee will be included with the billing statement.

If you have any questions regarding the Johnny's Ice House West property, you may contact the Illinois EPA project manager, Greg Dunn at 217/785-2359.

Sincerely,


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

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

cc: Timothy Dahlstrand
AES Due Diligence, Inc.
3000 Dundee Road, Suite 410
Northbrook, IL 60062

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

Records Unit
Bob O'Hara
Rick Lucas
Greg Dunn

Property of Cook County Clerk's Office