



NESA & ASSOCIATES, INC.

■ Corporate

23840 Dequindre Road, Warren, MI 48091

(586) 427-5525 • Fax (586) 427-5530

LETTER OF TRANSMITTAL

TO: Ann Arbor City Clerks Office

100 North 5th Avenue

2nd Floor, City Hall

Ann Arbor, MI. 48104

DATE:

04/29/09

RE: Former Shell Station

3240 Washtenaw @ Huron Parkway

Ann Arbor, MI. 48104

WE ARE SENDING YOU:	DESCRIPTION	ORIGINAL	COPY
	Notice to Local Unit of Government of Land Use Restriction		X

REMARKS: Provided per Sections 21310a(5) and 21316 of Part 213, Leaking Underground Storage Tanks (LUST), of the Natural Resources and Environmental Protection Act, 1994, as amended.

2009 MAY -1 AM 11:40
CITY OF ANN ARBOR
CITY CLERK
REC'D

SENT VIA:

REGULAR MAIL _____

CERTIFIED MAIL _____ X _____

OVERNIGHT _____

FAX _____

COURIER _____

COPIES TO: _____

SIGNED: Nicholas Hartz



NOTICE TO LOCAL UNIT(S) OF GOVERNMENT OF LAND USE RESTRICTIONS

This information and form is required under Sections 21310a(5) and 21316 of Part 213, Leaking Underground Storage Tanks (LUST), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Failure to comply with the provisions of this Act may result in civil fines not to exceed \$10,000 for each day the violation continues or failure to comply continues.

Instructions: (1) Use this form to provide notice of land use restrictions that are part of the corrective action plan to the Local Unit(s) of Government (LUG). (2) If corrective action is based on the use of institutional controls regarding off-site migration of regulated substances, submit a draft copy of this notification with the corrective action plan and wait for Remediation & Redevelopment Division (RRD) approval before providing notice to the LUG. If the institutional controls are for on-site contamination, the owner/operator may proceed with providing notice to the LUG. (3) Send the notice to the city, village or township clerk. Provide a copy to the County/District Health Department if groundwater exceeds Tier 1 residential criteria. (4) Submit a copy of the notice and proof of providing the notice with the Closure Report (EQP 3843) to the appropriate RRD District Office in form EQP4410. This notice does not constitute a warranty or representation of any kind by the State of Michigan that the corrective actions performed in accordance with this notice will result in the achievement of the remedial criteria established by Law, or that the property is suitable for any particular use.

City of Ann Arbor Clerk's Office
 Name of Local Unit of Government

Washtenaw County Health Department
 Name of Local Unit of Government

Notice to the Local Unit of Government Receiving this Form:

A corrective action plan for the site named below has been developed as a result of a release from an underground storage tank. This form and the attachments are to provide the local unit(s) of government notice of the land use restrictions that are part of the corrective action plan. A copy of the institutional control mechanism(s) in the form of a Corrective Action Notice to Register of Deeds, and/or Restrictive Covenant, and/or alternate mechanism is/are attached. The attached institutional control mechanism(s) describe the land use restrictions and the land where the restrictions apply.

Owner or Operator: Shell Oil Products US

Site Name: Former Shell Station (SAP 137906)

Site Address: 3240 Washtenaw Avenue @ Huron Parkway City: Ann Arbor State: MI Zip: 48104

Contact Person: Kevin E. Dyer Phone Number: 618-288-7237

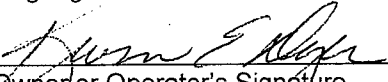
Mailing Address: PMB #399, 17 Junction Drive City: Glen Carbon State: IL Zip: 62034

Qualified Underground Storage Tank Consultant : NESA & Associates, Inc.

Address: 23840 Dequindre City: Warren State: MI Zip: 48091

Contact Person: Nikolas Hertrich Phone Number: 586-427-5525

I hereby attest to the accuracy of the statements in this document and all attachments. I further certify that the language on this form has not been modified.



 Owner or Operator's Signature

4/2/09

 Date



RESTRICTIVE COVENANT

MDEQ Reference No. RC-RRD-213-09-037

25
9

The below listed owner/operator has implemented a corrective action plan requiring institutional controls in the form of a restrictive covenant. The corrective action plan was developed as a result of a release from a Leaking Underground Storage Tank(s) (LUST) and was prepared pursuant to the provisions in Section 21310a(2) of Part 213. Regulated substances were discovered during the investigation and/or removal of Underground Storage Tanks (USTs). The corrective action plan cited above will be maintained on file at the STD District Office located at

Jackson District Office, 301 E. Louis B. Glick Hwy, Jackson, Michigan 49201-1556

This restrictive covenant is filed with the County Register of Deeds and covers the land identified in the following, and more fully described in Attachment A, attached. (*Attach a legal property description as Attachment A for the land where the restrictive covenant would apply, and a survey map of the areas addressed by this restrictive covenant.*). The restrictive covenant defines the areas addressed by the corrective action plan and the scope of any land use or resources limitations. The survey defining the areas addressed by the corrective action plan is attached. (*Describe the scope of any land use or resource use limitations.*)

See Attachment B

The restrictive covenant is being filed by the below listed legal titleholder or with the express written permission of the legal titleholder. (*Attach permission statement from the legal titleholder if he/she is not signing this document.*)

Owner/Operator implementing the corrective action plan: Equilon Enterprises LLC.

Release Date(s): 8-12-99, 3-25-97

County where deed is registered: Washtenaw

Common description of land, township/city, County: 3240 Washtenaw, Ann Arbor, Washtenaw County, Michigan 48104.



Peggy M. Haines - Washtenaw Co. REST

Now Therefore (Legal Titleholder Name and Address) Equilon Enterprises LLC
12700 Northborough, Room 254 NOB, Houston, TX 77067

(hereinafter referred to as the "titleholder"), hereby imposes restriction on the property and covenants and agrees that:

1. The Titleholder shall restrict activities on the property that may interfere with corrective action, operation and maintenance, monitoring, or other measures necessary to assure the effectiveness and integrity of the corrective action.
2. The Titleholder shall restrict activities that may result in exposure to regulated substances above levels established in the corrective action plan.
3. The Titleholder shall prevent a conveyance of title, an easement, or any other interest in the property from being consummated without adequate and complete provision for compliance with the corrective action plan and prevention of exposure to regulated substances described in item 2 above.
4. The Titleholder shall grant to the Department of Environmental Quality (Department) and its designated representatives the right to enter the property at reasonable times for the purpose of determining and monitoring compliance with the corrective action plan, including but not limited to the right to take samples, inspect the operation of the corrective action measures, and inspect records.
5. Soil shall not be removed from the property described herein, unless it is characterized to determine if it can be relocated without posing a threat to the public health, safety, welfare or environment in the new location.
6. The state may enforce the restrictions set forth in the covenant by legal action in a court of appropriate jurisdiction.

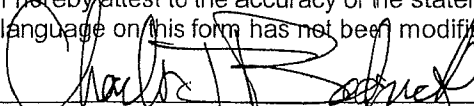
The restrictions and other requirements described in this Restrictive Covenant shall run with the land and be binding to the titleholder's successors, assigns, and lessees or their authorized agents, employees or persons acting under their direction or control. The restrictions shall apply until the Department determines that regulated substances no longer present an unacceptable risk to the public health, safety or welfare or to the environment. A copy of this Restrictive Covenant shall be provided to all heirs, successors, assigns, and transferees.

This Restrictive Covenant shall not be amended, modified or terminated except by a written instrument executed by and between the Titleholder at the time of the proposed amendment, modification, or termination, and the Department. Within five (5) days of executing an amendment, modification or termination of the Restrictive Covenant, the Titleholder shall record such amendment, modification or termination with the County Register of Deeds, previously named, and within five (5) days thereafter, the Titleholder shall provide a true copy of the recorded amendment, modification or termination to the Department.

If any provision of this Restrictive Covenant is also the subject of any laws or regulations established by any federal, state or local government, the stricter of the two standards shall prevail.

The undersigned person, if executing this Restrictive Covenant on behalf of the Titleholder, represents and certifies that they are duly authorized and have been fully empowered to execute and deliver this Restrictive Covenant.

I hereby attest to the accuracy of the statements in this document and all attachments. I further certify that the language on this form has not been modified in any way.



Legal Titleholder or Authorized Representative's Signature

Charles T. Badrick
Attorney-in-Fact

May 10, 2002

Date

Print Legal Titleholder or Authorized Representative's Name

IN WITNESS WHEREOF, the said Titleholder of the above described property has caused the Restrictive Covenant to be executed on the 10 day of May, 2002.
(month) (year)

Signed in the presence of:

Judith L. Reyna
Witness

Judith L. Reyna
Print Witness' Name*

Jane E. Harris
Witness

JANE E. HARRIS
Print Witness' Name*

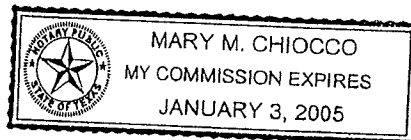
* The notary shall not also serve as a witness.

The foregoing instrument was acknowledged before me this 10 day of May, 2002,
(month) (year)

by Charles T. Badrick.

Mary M. Chiocco
, Notary Public

Harris County, Texas
(Insert County) (Insert State)



My Commission Expires: _____

Drafted by:

NESA & Associates, Inc. ✓
Company Name

Jim Kirsch
Print Name of Drafter

23840 Dequindre Road, Warren, MI 48091
Company Address



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CERTIFICATE

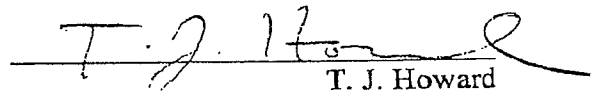
EQUILON ENTERPRISES LLC

THE UNDERSIGNED hereby certifies that he is an Assistant Secretary of Equilon Enterprises LLC, a Delaware limited liability company ("Company"), and further certifies as follows.

1. Equiva Services LLC, a limited liability company formed under the laws of Delaware and an affiliate of the Company, has entered into a services agreement with the Company.
2. Pursuant to the services agreement, Equiva Services LLC performs services for the Company.
3. Pursuant to the services performed for the Company, Equiva Services LLC has the authority and responsibility for acting for and on behalf of the Company and in that capacity will execute and deliver documents, instruments and papers as required.

IN WITNESS WHEREOF, this certificate has been executed and delivered this 28th day of April, 1999.




T. J. Howard
Assistant Secretary



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Peggy M. Haines - Washtenaw Co. REST

L-4137 P-492

ATTACHMENT "A"

EXHIBIT "A"
WASHTENAW COUNTY, MICHIGAN

Tract I. - 3240 Washtenaw Blvd, Ann Arbor, WASHTENAW, WIC 221-0280-0202
Tax Parcel # 12-02-204-017



PARCEL NO. 1

All that part of the N.W. 1/4 of Section 2, T.3 S., R.6 E., Pittsfield Township, Washtenaw County, Michigan, being also known as the north 200 feet of Parcels "C" and "X" described as: Beginning at a point in the southerly line of Washtenaw Avenue, 80 feet wide, which point is distant S. 73° 15' 22" E., 983.40 feet from the intersection of said southerly line of Washtenaw Avenue with the Westerly line of Section 2, said point of intersection being N. 0° 32' 42" W., 1896.06 feet along the westerly line of Section 2 from the W. 1/4 corner of Section 2; thence along the southerly line of Washtenaw Avenue, S. 73° 15' 22" E., 259.80 feet; thence S. 0° 24' 22" E., 200 feet; thence north 73° 15' 22" W., 259.80 feet; thence N. 0° 24' 22" W., 200 feet to the point of beginning;

PARCEL NO. 2

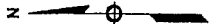
Commencing at the W 1/4 corner of Section 2, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence Northerly in the west line of said Section 2, 1896.06 feet to the Southerly line of Washtenaw Avenue; thence in the Southerly line of Washtenaw Avenue, S 73°-13'-30" E 1243.20 feet to the NE corner of land described in Liber 581 of Deeds, page 308, Washtenaw County Records, Washtenaw County, Michigan for a PLACE OF BEGINNING; thence continuing S 73°-13'-30" E 34.99 feet; thence S 15°-38'-30" W 120.68 feet; thence in the East line of said land described in Liber 581, page 308, N 0°-25'-30" W 126.28 feet to the Place of Beginning, being a part of the NW 1/4 of said Section 2, containing 0.048 acres of land more or less, subject to easements of record,

together with all rights, privileges and appurtenances thereto and all buildings and land improvements thereon; subject to all easements, rights-of-way, reservations, restrictions and encumbrances of record, to any existing tenancies, to all zoning laws and ordinances, and to any state of facts an accurate survey or inspection of the premises would show:

WASHTENAW COUNTY TREASURER
TAX CERTIFICATE NO. 3418 MM

3



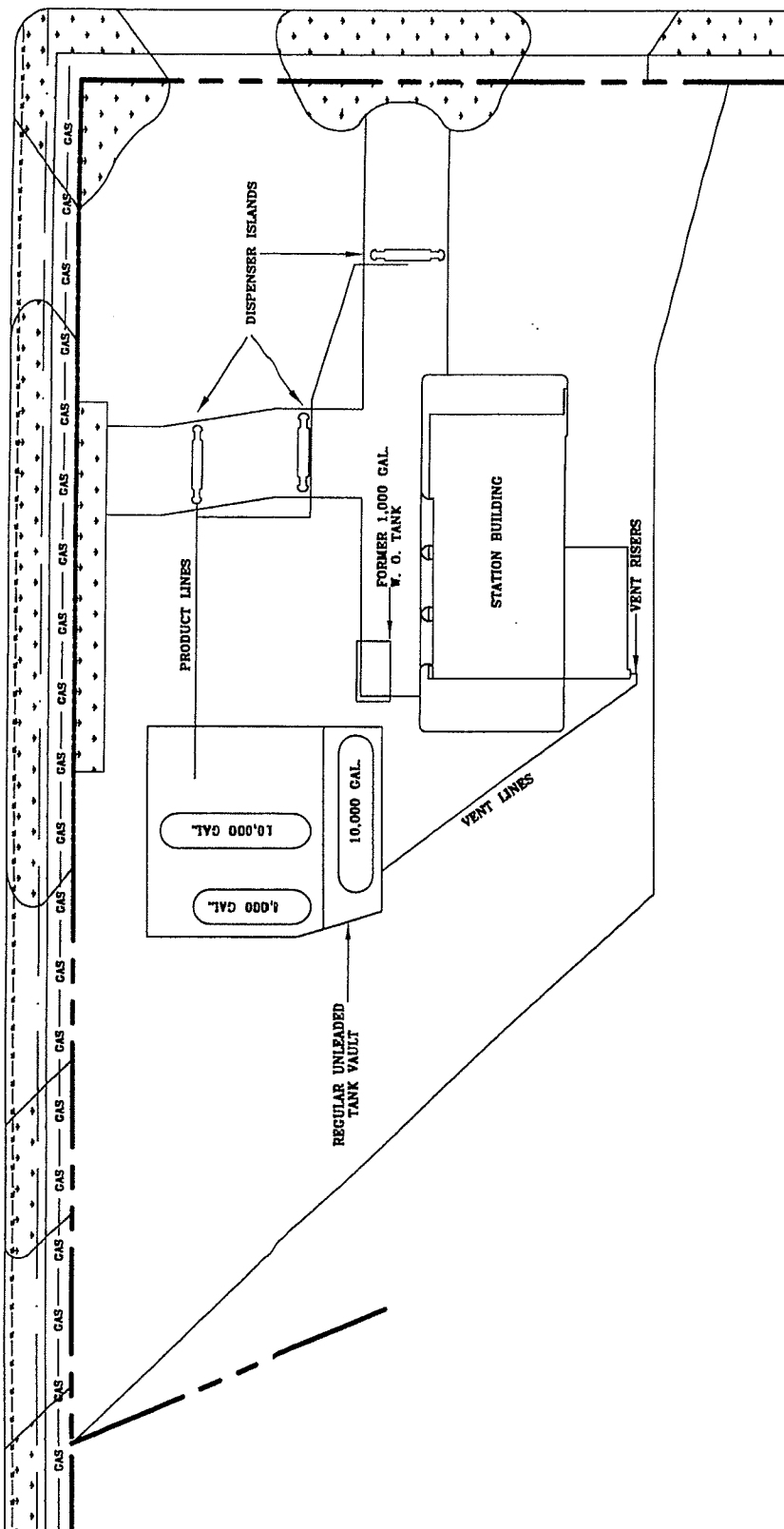


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HURON PARKWAY

WASHTENAW AVENUE (US-23 Business Route)

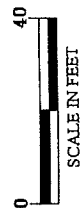


LEGEND:

- SOIL BORING/
MONITORING WELL LOCATIONS
- PROPERTY LINE
- ELECTRIC LINE
- GAS LINE
- WATER LINE

FIGURE 1
 BASE MAP

SHELL SERVICE STATION
 WIC #: 221-0280-0202
 3240 WASHTENAW AVENUE
 ANN ARBOR, MI





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Peggy M. Haines - Washtenaw Co. REST

L-4137 P-492

ATTACHMENT "B"



LAND USE & RESOURCE LIMITATIONS

1. The property use must remain consistent with the Michigan Department of Environmental Quality-Storage Tank Division Commercial III land use conditions.
2. The installation of any wells, and the use of groundwater from the site for any purpose, except for environmental groundwater monitoring or remediation purposes, are prohibited.
3. In the event that earthwork is performed at the site that results in a disturbance of the underlying soil, proper characterization must be performed to demonstrate that such activities will not pose an unacceptable environmental health and safety risk in accordance with 1994 PA 451, Part 213, as amended.
4. The construction of subsurface basement structures on the site is prohibited.