



**BEFORE THE ILLINOIS POLLUTION CONTROL  
BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
	)	
v.	)	
	)	
MAGNA TAX SERVICE CO., INC.,	)	PCB No. 17 – 45
Respondent.	)	(Enforcement – Land)
	)	

**RESPONDENT’S ADDITIONAL AFFIRMATIVE DEFENSES**

Magna Tax, MAGNA TAX SERVICE CO., INC. (“Magna Tax”), by its attorneys Brown, Hay & Stephens, LLP, hereby files RESPONDENT’S ADDITIONAL AFFIRMATIVE DEFENSES III-VI, as follows:.

**AFFIRMATIVE DEFENSE III:**

**Open Dumping**

**Count I**

1. Magna Tax, a real estate company, never operated a business on the Site.
2. Magna Tax acquired the Site pursuant to a tax sale, subsequent to the abandonment of the property by Young’s Radiator.
3. Count I alleges that, among other things, that Magna Tax caused or allowed open dumping in violation of the Illinois Environmental Protection Act (“Act”).
4. The “act” complained of is a release of heating oil from an old abandoned Underground Storage Tank (“UST”) which was placed in use and operated by prior owners and which remained underground and undiscovered, even during remediation of the Site pursuant to the State Site Remediation Program (“SRP”), Title XVII of the Act, for which Magna Tax received a No Further Remediation (“NFR”) Letter in 2008 (“2008 NFR”). Attachment A.
5. Upon becoming aware of the release, Respondent investigated the circumstances, entered the UST into the State’s Leaking Underground Storage Tank (“LUST”) Program,

registered, reported, removed and remediated the tank and the area surrounding the tank, for which Respondent received, on May 22, 2017, a second NFR Letter (“2017 NFR”). Attachment A-1.

WHEREFORE, the Board should find that the facts presented in the State’s Complaint, as well as the above-reference facts, do not constitute “open dumping” in violation of the Act.

**AFFIRMATIVE DEFENSE IV:**  
**Cause or Allow a Violation of the Act**  
**Counts I, IV and V**

1. Counts I, IV and V each allege that Magna Tax “caused” or “allowed” a violation of the Act because of a release from a UST.

2. As Magna Tax did not conduct any operations on the Site, nor otherwise place or operate a UST on the property, Magna Tax cannot be said to have “caused” open dumping in violation in violation of Section 21 of the Act or to have “caused” water pollution or a water pollution hazard in violation of Section 12 of the Act.

3. Magna Tax conducted Site Remediation at the Site, first pursuant to the SRP Program, which resulted in a 2008 NFR Letter, Attachment A, and then pursuant to the LUST Program, which resulted in a 2017 NFR Letter, Attachment A-1.

4. Each remediation occurred under the auspices, authority and oversight of the Illinois Environmental Protection Agency (“Illinois EPA”), consistent with the statutory and regulatory requirements set forth in the respective programs.

5. Magna Tax became aware of the UST release only subsequent to the Illinois EPA's issuance of the 2008 NFR Letter and not until the Illinois EPA investigated and issued a Notice of Violation ("VN").

6. In order to fully understand the Illinois EPA's investigation, and address the issues raised in the above-referenced VN, Magna Tax hired the undersigned law firm and engaged the services of a qualified technical consultant who conducted a more thorough review of the incident, the prior remediation and the Site history.

7. Upon recognizing that the new release was from an old UST that was undiscovered in the original site remediation, and that the UST was a heating oil tank eligible for reimbursement under the LUST Program, Magna Tax, as owner of the property, registered the tank and caused it to be removed and the surrounding area remediated. Recently, subsequent to the State's filing of this Complaint, the Illinois EPA issued a second NFR letter regarding this property, the 2017 NFR Letter. See Attachment A-1.

8. Given Magna Tax's affirmative actions to investigate and remediate the release, as well as its entry into the State's voluntary remediation programs, twice, and its receipt of two NFR Letters applicable to this Site, Magna Tax cannot be said to have "allowed" open dumping in violation of Section 21 of the Act or to have "allowed" or "threatened" water pollution or a water pollution hazard in violation of Section 12 of the Act.

WHEREFORE, the Board should find that Magna Tax did not "cause" and it did not "allow" a violation of Section 12 or Section 21 of the Act.

**AFFIRMATIVE DEFENSE V:**  
**Failure to Conduct a Waste Determination**  
**Count II**

1. In Count II the State charges that Magna Tax failed to conduct a waste determination pursuant to Section 21(d)(1)-(2) of the Act and Section 722.111 of the Board's hazardous waste regulations, an obligation required of "generators" of hazardous waste. As support for this allegation, the State merely asserts that "[B]y allowing the release of the dark liquid from the UST, the Respondent generated a solid waste."

2. Magna Tax did not "allow" a release from the UST, nor did it "generate" waste, hazardous or otherwise; instead Magna Tax reported, investigated, and remediated the UST release, including removal of the UST, characterization of the waste for appropriate transport to an off-site disposal facility, and appropriate disposal, in accordance with Board regulations and under Illinois EPA's supervision, for which actions it secured the 2017 NFR Letter.

WHEREFORE, the Board should find that Magna Tax did not violate the regulatory requirement that it conduct a hazardous waste determination.

**AFFIRMATIVE DEFENSE VI:**  
**Operation of a Waste Disposal Site without a Landfill Permit**  
**Count III**

3. In Count III the State charges Magna Tax with failing to secure a landfill permit; Section 812.101(a) of the Board's rules requires persons who intend to "develop and operate a landfill" to apply for permit before conducting waste disposal operations; Section 21(d) of the Act in turn prohibits persons from conducting "waste-storage, waste-treatment, or waste-disposal operation" without a landfill permit.

4. On the basis of the facts set forth in the Complaint, and herein, Magna Tax did not conduct any such waste disposal operations and had no intention of doing so. Since it conducted no activities which required a landfill permit, it cannot be charged with failure to secure such permit.

WHEREFORE, the Board should find that Magna Tax did not violate Section 21 (d) and Section 812.101(a) because it did not apply for, or have, a landfill permit.

Respectfully submitted,

**MAGNA TAX SERVICE CO., INC.**

Dated: June 23, 2017

By:  /s/Claire A. Manning  
One of its Attorneys

**BROWN, HAY & STEPHENS, LLP**

William D. Ingersoll  
Registration No. 6186363  
wingersoll@bhslaw.com  
Claire A. Manning  
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205 S. Fifth Street, Suite 700  
P.O. Box 2459  
Springfield, IL 62705-2459  
(217) 544-8491

CERTIFICATE OF E-MAIL SERVICE

I, Claire A. Manning, certify that I have this date served the attached Notice of Filing and Respondent's Additional Affirmative Defenses by e-mail as described below and from my e-mail address as indicated below, upon the following persons:

To: Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
carol.webb@illinois.gov

Rachel Medina  
Assistant Attorney General  
Environmental Bureau  
rmedina@atg.state.il.us

By: /s/Claire A. Manning  
One of its Attorneys

Dated: June 23, 2017

**BROWN, HAY & STEPHENS, LLP**

William D. Ingersoll  
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# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

(217) 782-6761

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

September 9, 2008

CERTIFIED MAIL

7007 0220 0000 0150 6888

Todd R. Shingleton  
Wabtec Corporation  
1001 Air Brake Avenue  
Wilmerding, PA 15148

Re: 0290255010 /Coles

Mattoon /Young Radiator  
Site Remediation Program/Technical Reports  
No Further Remediation Letter

RELEASABLE

JAN 07 2009

Dear Mr. Shingleton:

REVIEWER CT

The Remedial Action Completion Report (Date March 2007/Log Number 07-33177) and the Revised Results of Additional Groundwater Monitoring (dated April 2, 2008/Log No. 0837294), as prepared by Parsons and American Geosciences, Inc. respectively for the above referenced Remediation Site, has been reviewed by the Illinois Environmental Protection Agency ("Illinois EPA") and demonstrates that the remedial action was completed in accordance with the Revised Remedial Action Plan (dated February 2003/Log No. 03-0760).

The Remediation Site, consisting of 6.25 acres, is located at 120 North 14th Street, Mattoon, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form received August 29, 2008 is Young Radiator Co., Inc. c/o Wabtec Corporation.

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 and conditions of this Letter.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000  
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463  
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800  
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120  
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Attachment A

**Conditions and Terms of Approval**

**Level of Remediation and Land Use Limitations**

- 1) 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.
  - b) A new Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.
- 2) The Remediation Site is restricted to Industrial/Commercial land use.
- 3) 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.

**Engineering Controls:**

- 4) The concrete cap barrier, as shown in the attached Site Base Map, must remain over the contaminated soils. This concrete cap barrier must be properly maintained as an engineered barrier to inhibit inhalation and ingestion exposure to the contaminated media.

**Institutional Controls:**

- 5) No person shall construct, install, maintain, or operate a well at the Remediation Site. All water supplies and water services for the Remediation Site must be obtained from a public water supply system. The provisions of this institutional control shall be applicable to all water usage (e.g., domestic, industrial/commercial uses and outdoor watering).
- 6) The City of Mattoon agrees through the use of a highway authority agreement dated October 10, 2005, to allow contaminated groundwater, adjacent to the boundary of the Site located at 120 North 14<sup>th</sup> Street, to remain beneath its highway right-of-way. The highway owner also agrees that the contaminated groundwater shall not be utilized as potable or other domestic supply water.

**Other Terms**

- 7) 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 that lies beneath the concrete engineered barrier. 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 the engineered barrier 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.

- 8) 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.
- 9) 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

- 10) 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 titleholder 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;
  - 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.

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

- a) Young Radiator Co., Inc. c/o Wabtec Corporation;
- 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;
- 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.

12) 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 Coles 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 Coles County in accordance with Illinois law so that it forms a permanent part of the chain of title for the Remediation Site.

13) Within thirty (30) days of this Letter being recorded by the Office of the Recorder of Coles County, a certified copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA to:

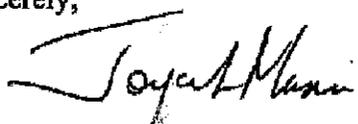
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Robert E. O'Hara  
Illinois Environmental Protection Agency  
Bureau of Land/RPMS  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

14) 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 this correspondence, you may contact the Illinois EPA project manager, Mr. Tim Murphy at (217) 524-4823.

Sincerely,



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

Attachments (2): Property Owner Certification of No Further Remediation Letter under the  
Site Remediation Program Form  
Notice to Remediation Applicant

cc:

Magna Tax Service  
Mr. Dennis Ballinger  
119 West William Street P.O. Box 1452  
Decatur, IL 62525

Harry Gant, VP  
Young Radiator Company  
2825 Four Mile Road  
Racine, WI 53404

Attachment A

**PREPARED BY:**

**Name:** Todd R. Shingleton  
Wabtec Corporation

**Address:** 1001 Air Brake Avenue  
Wilmerding, PA 15148

**RETURN TO:**

**Name:** Todd R. Shingleton  
Wabtec Corporation

**Address:** 1001 Air Brake Avenue  
Wilmerding, PA, 15148

**THE ABOVE SPACE FOR RECORDER'S OFFICE**

The remediation applicant must submit this Environmental No Further Remediation Letter within 45 days of its receipt, to the Office of the Recorder of Coles County.

Illinois State EPA Number: 0290255010

American Geosciences, Inc., the Remediation Applicant, whose address is 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668 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:

Tract 1:

All of Blocks One Hundred-Five (105) and One Hundred-Six (106) and the North One-Half (1/2) of Block One Hundred-Twenty (120) in the Original Town, now City of Mattoon, including the strip of ground that originally was between said Block One Hundred-Six (106) and said Block One Hundred-Twenty (120), which strip of ground was originally a portion of Prairie Avenue in said City of Mattoon, and that part of Prairie Avenue from the West Side of Twelfth (12<sup>th</sup>) Street to the West Side of Thirteenth (13<sup>th</sup>) Street, and which portion of said Prairie Avenue has been vacated by the City Council of the City of Mattoon, and also the strip of ground that originally was between said Block One Hundred-Five (105) and said Block One Hundred-Six (106), which strip of ground was originally a part of Thirteenth (13th) Street, lying between the South line of Richmond Avenue and the North line of Prairie Avenue, and that part of Thirteenth (13<sup>th</sup>) Street from the South Side of Prairie Avenue to the North Side of Alley between Prairie Avenue and Broadway Avenue, in said City of Mattoon, and which portions of said Thirteenth (13th) Street that have been vacated by the City Council of the City of Mattoon; all situated in the City of Mattoon, County of Coles and State of Illinois.

Tract 2:

Lots One (1), Two (2), Three (3), Four (4), Five (5) and Six (6) in Block One-Hundred Twenty-One (121) in the Original Town, now City of Mattoon, situated in the County of Coles, State of Illinois.

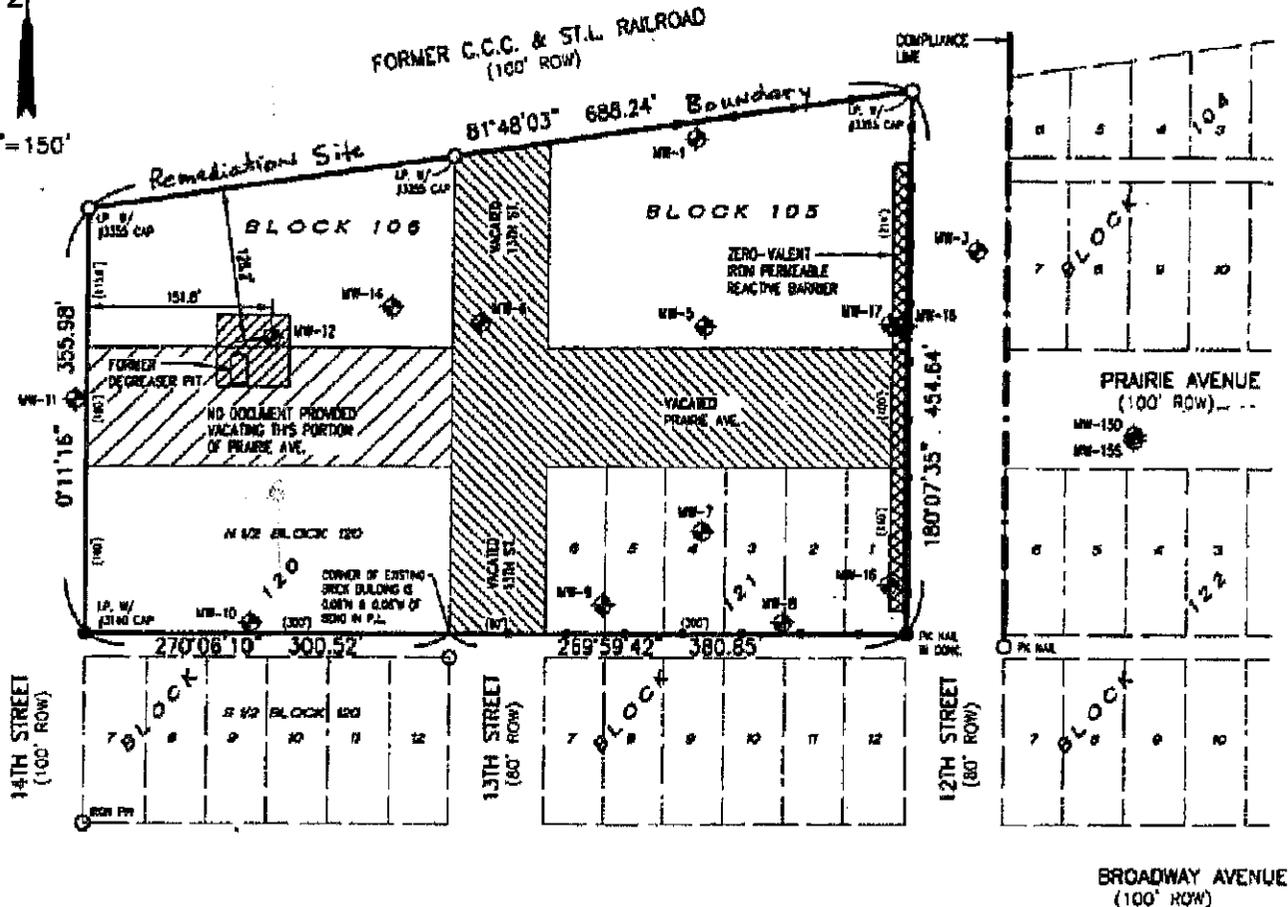
2. Common Address: 120 North 14th Street, Mattoon, IL
3. Real Estate Tax Index/Parcel Index Number: Tract 1: 07-1-03651-000; Tract 2: 07-1-03867-000
4. Remediation Site Owner: Magna Tax Services Co., Inc.
5. Land Use: Industrial/Commercial
6. Site Investigation: Focused

# Site Base Map

0290235010 / Coles  
Mattoon / Young Radiator  
Site Remediation Program



1" = 150'



**NOTES:**

1. FIELD WORK FOR BOUNDARY SURVEY COMPLETED MAY 7, 2008.
2. NO SUBSURFACE EXPLORATION WAS MADE.
3. NO ENCROACHMENTS ARE SHOWN ON THIS SITE BASE MAP.
4. PERMEABLE REACTIVE BARRIER AND ENGINEERED BARRIER WERE SCALED FROM DRAWINGS PROVIDED BY CLIENT.
5. AZIMUTHS ARE BASED ON ASSUMED NORTH.

**LEGEND**

- SURVEY MARKER FOUND
- SURVEY MARKER SET
- ( ) RECORD DISTANCE/AZIMUTH
- ⊕ MONITORING WELL LOCATION
- EXISTING FENCE
- ▨ PERMEABLE REACTIVE BARRIER
- ▩ ENGINEERED BARRIER (60'x60')
- ▧ VACATED STREET
- ▨ NO RECORD PROVIDED OF VACATED ST.



Dated this 13TH day of MAY 2008 A.D.

*Daniel E. Hoelscher*  
Daniel E. Hoelscher, I.P.L.S. #3140  
LICENSE EXPIRES NOVEMBER 30, 2008

F.B. #435

SHEET 1 OF 1

Job No. 7208047  
Date MAY 12, 2008  
Drawn S. EWING  
Checked DEH  
Revised \_\_\_\_\_

**The Upchurch Group**  
surveyors  
engineers  
architects

Professional Design Firm Corporation  
License No. 184-003401  
e mail: upchurchgroup@upchurchgroup.com  
123 North 13th Street  
Mattoon, IL 61938  
Phone: 217.235.3177

**SITE REMEDIATION PROGRAM  
TABLE A: REGULATED SUBSTANCES OF CONCERN  
0290255010/Young Radiator**

**Volatile Organic Compounds**

CAS No.	Compound Name
67-64-1	Acetone
107-02-8	Acrolein (Propenal)
79-10-7	Acrylic Acid
107-13-1	Acrylonitrile
71-43-2	Benzene
314-40-9	Bromacil
108-86-1	Bromobenzene
74-97-5	Bromochloromethane
75-27-4	Bromodichloromethane
75-25-2	Bromoform
74-83-9	Bromomethane
106-99-0	1,3-Butadiene
71-36-3	n-Butanol (Butanol)
78-93-3	2-Butanone (MEK)
104-51-8	n-Butylbenzene
135-98-9	sec-Butylbenzene
98-06-6	tert-Butylbenzene
105-60-2	Caprolactam
75-15-0	Carbon Disulfide
56-23-5	Carbon Tetrachloride
108-90-7	Chlorobenzene
124-48-1	Chlorodibromomethane (Dibromochloromethane)
75-00-3	Chloroethane
67-66-3	Chloroform
74-87-3	Chloromethane
95-49-8	2-Chlorotoluene
106-43-4	4-Chlorotoluene
108-94-1	Cyclohexanone
96-12-8	1,2-Dibromo-3-Chloropropane
74-95-3	Dibromomethane
106-93-4	1,2-Dibromomethane
75-34-3	1,1-Dichloroethane
107-06-2	1,2-Dichloroethane
75-35-4	1,1-Dichloroethene
156-60-5	<i>trans</i> -1,2-Dichloroethene
156-59-2	<i>cis</i> -1,2-Dichloroethene
75-71-8	Dichlorodifluoromethane
78-87-5	1,2-Dichloropropane
142-28-9	1,3-Dichloropropane
594-20-7	2,2-Dichloropropane
563-58-6	1,1-Dichloropropene

4

10061-02-6	<i>trans</i> -1,3-Dichloropropene
10061-01-5	<i>cis</i> -1,3-Dichloropropene
111-90-0	Diethylene Glycol Monoethyl Ether
123-91-1	1,4-Dioxane
64-17-5	Ethanol
141-78-6	Ethyl Acetate
140-88-5	Ethyl Acrylate
100-41-4	Ethylbenzene
107-21-1	Ethylene Glycol
111-76-2	Ethylene Glycol Monobutyl Ether
103-11-8	2-Ethylhexyl Acrylate
50-00-0	Formaldehyde
98-01-1	Furfural
110-54-3	Hexane
591-78-6	2-Hexanone
74-88-4	Iodomethane (Methyl Iodide)
78-83-1	Isobutyl Alcohol (Isobutanol)
67-63-0	Isopropyl Alcohol (Isopropanol)
98-82-4	Isopropylbenzene (Cumene)
99-87-6	<i>p</i> -Isopropyltoluene
67-56-1	Methyl Alcohol (Methanol)
79-20-9	Methyl Acetate
108-87-2	Methylcyclohexane
75-09-2	Methylene Chloride
108-10-1	4-Methyl-2-Pentanone (MIBK)
1634-04-4	Methyl Tertiary Butyl Ether (MTBE)
91-20-3	Naphthalene
109-60-4	<i>n</i> -Propyl Acetate
103-65-1	<i>n</i> -Propylbenzene
57-55-6	Propylene Glycol
107-98-2	Propylene Glycol Monoethyl Ether
100-42-5	Styrene
127-18-4	Tetrachloroethene
630-20-6	1,1,1,2-Tetrachloroethane
79-34-5	1,1,2,2-Tetrachloroethane
109-99-9	Tetrahydrofuran
79-01-6	Trichloroethene
71-55-6	1,1,1-Trichloroethane
79-00-5	1,1,2-Trichloroethane
75-69-4	Trichlorofluoromethane
96-18-4	1,2,3-Trichloropropane
95-63-6	1,2,4-Trimethylbenzene
99-35-4	1,3,5-Trimethylbenzene
108-88-3	Toluene
108-05-4	Vinyl Acetate
75-01-4	Vinyl Chloride
1330-20-7	Xylenes (total)

**Semivolatile Organic Compounds**

CAS No.	
83-32-9	Acenaphthene
208-96-8	Acenaphthylene
62-53-3	Aniline
120-12-7	Anthracene
25057-89-0	Bentazon
100-52-7	Benzaldehyde
92-87-5	Benzidine
56-55-3	Benzo(a)anthracene
50-32-8	Benzo(a)pyrene
205-99-2	Benzo(b)fluoranthene
191-24-2	Benzo(g,h,i)perylene
207-08-9	Benzo(k)fluoranthene
100-51-6	Benzyl Alcohol
65-85-0	Benzoic acid
111-44-4	bis(2-Chloroethyl)ether
111-91-1	bis(2-Chloroethoxy)methane
117-81-7	bis(2-Ethylhexyl)phthalate
101-55-3	4-Bromophenyl-phenyl ether
1689-84-5	Bromoxycil
85-68-7	Butyl benzyl phthalate
98-54-4	para-tert-Butylphenol
86-74-8	Carbazole
1563-66-2	Carbofuran
106-47-8	4-Chloroaniline
59-50-7	4-Chloro-3-methylphenol
91-58-7	2-Chloronaphthalene
95-57-8	2-Chlorophenol
7005-72-3	4-Chlorophenyl-phenyl ether
218-01-9	Chrysene
53-70-3	Dibenzo(a,h)anthracene
132-64-9	Dibenzofuran
95-50-1	1,2-Dichlorobenzene
541-73-1	1,3-Dichlorobenzene
106-46-7	1,4-Dichlorobenzene
91-94-1	3,3'-Dichlorobenzidine
120-83-2	2,4-Dichlorophenol
84-66-2	Diethylphthalate
105-67-9	2,4-Dimethylphenol
131-11-3	Dimethylphthalate
99-65-0	1,3-Dinitrobenzene
84-74-2	Di-n-butylphthalate
534-52-1	4,6-Dinitro-2-methylphenol
51-28-5	2,4-Dinitrophenol
121-14-2	2,4-Dinitrotoluene
606-20-2	2,6-Dinitrotoluene

117-84-0	Di- <i>n</i> -octyl phthalate
206-44-0	Fluoranthene
86-73-7	Fluorene
118-74-1	Hexachlorobenzene
87-68-3	Hexachlorobutadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
193-39-5	Indeno(1,2,3- <i>cd</i> )pyrene
78-59-1	Isophorone
101-14-4	4,4'-Methylene bis(2-chloroaniline)
59-50-7	3-Methyl-4-Chlorophenol
101-77-9	4,4'-Methylenedianiline
91-57-6	2-Methylnaphthalene
95-48-7	2-Methylphenol ( <i>o</i> -Cresol)
108-39-4	3-Methylphenol
106-44-5	4-Methylphenol ( <i>p</i> -Cresol)
109-06-8	2-Methylpyridine
88-74-4	2-Nitroaniline
99-09-2	3-Nitroaniline
100-01-6	4-Nitroaniline
98-95-3	Nitrobenzene
55-63-0	Nitroglycerin
88-75-5	2-Nitrophenol
100-02-7	4-Nitrophenol
86-30-6	N-Nitrosodiphenylamine
621-64-7	N-Nitroso-di- <i>n</i> -propylamine
108-60-1	2,2'-oxybis(1-chloropropane)
82-68-8	Pentachloronitrobenzene
87-86-5	Pentachlorophenol
85-01-8	Phenanthrene
108-95-2	Phenol
129-00-0	Pyrene
121-82-4	RDX (Cyclonite)
118-79-6	2,4,6-Tribromophenol
87-61-6	1,2,3-Trichlorobenzene
120-82-1	1,2,4-Trichlorobenzene
99-35-4	1,3,5-Trinitrobenzene
95-95-4	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol
118-96-7	2,4,6-Trinitrotoluene

**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.

<b>Property Owner Information</b>	
Owner's Name: _____	
Title: _____	
Company: _____	
Street Address: _____	
City: _____	State: _____ Zip Code: _____ Phone: _____
<b>Site Information</b>	
Site Name: _____	
Site Address: _____	
City: _____	State: _____ Zip Code: _____ County: _____
Illinois inventory identification number: _____	
Real Estate Tax Index/Parcel Index No. _____	
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: _____	Date: _____
SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 20__	
_____ 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.

## Notice to Remediation Applicant

### Please follow these instructions when filing the NFR letter with the County Recorder's Office

#### Instructions for Filing the NFR Letter

The following documents must be filed:

- A. Body of the NFR Letter (contains appropriate terms and conditions, tables, etc.)
- B. Attachments to NFR letter
  - Illinois EPA Site Remediation Program Environmental Notice (Legal Description and PIN of property)
  - Maps of the site
  - Table A: Regulated Substances of Concern (if applicable.)
  - Property Owner Certification
- C. A copy of the ordinance, if applicable, used to address groundwater contamination

1. Place the Illinois EPA Site Remediation Program Environmental Notice on top of the NFR prior to giving it to the Recorder.
2. If you are not the owner (record title holder) of the property on the date of filing of this NFR, you must attach a completed owner's certification form signed by the owner of the property at the time of filing (e.g., if the property recently sold, the new owner must sign).
3. If any of the terms and conditions of the NFR letter references a groundwater ordinance, you must record a copy of the groundwater ordinance with the NFR letter.
4. If any of the terms and conditions of the NFR letter references a highway agreement, you must record the highway agreement if specifically required by the municipality granting the agreement.
5. Within thirty (30) days of this NFR Letter being recorded by the Office of the Recorder of the County in which the property is located, 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

6. Remove this page from the NFR letter, prior to recording.

If you have any questions call (217) 782-6761 and speak with the "project manager on-call" in the Site Remediation Program.

NFR Institutional Control -SRP

Attachment A

**bcc: Records Unit  
Bob O'Hara  
Rick Lucas**

7007 0220 0080 0150 6888

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only. No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$	
Certified Fee		2.70
Return Receipt Fee (Endorsement Required)		3.20
Restricted Delivery Fee (Endorsement Required)		
Total	\$	

Postmark (Date)  
 USPS 62708

Seal of the Post Office

**Todd R. Shingleton**  
**Wabtec Corporation**  
**1001 Air Brake Avenue**  
**Wilmerding, PA 15148**

Instructions



8 0 5 7 0 9 0  
Tx:4054249

**201700770361**

**SUE RENNELS  
COLES COUNTY RECORDER  
COLES COUNTY, IL  
RECORDED ON  
05/24/2017 2:17:31 PM**

**REC FEE: 49.00  
RHSP FEE: 9.00  
PAGES: 13**

**PREPARED BY:**

Name: Magna Tax Service Co., Inc.  
Attention: Dennis Ballinger  
Address: 120 North 14<sup>th</sup> Street  
Mattoon, Illinois 61938

**RETURN TO:**

Name: Magna Tax Service Co., Inc.  
Attention: Dennis Ballinger  
Address: 119 West William Street  
PO Box 1452  
Decatur, Illinois 62523

**(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 COLES COUNTY IN WHICH THE SITE DESCRIBED BELOW IS LOCATED.**

Illinois EPA No.: 0290255010  
Leaking UST Incident No.: 20131007

Magna Tax Service Co. Inc., the owner and/or operator of the leaking underground storage tank system(s) associated with the above-referenced incident, whose address is 119 West William Street, PO Box 1452, Decatur, Illinois, has performed investigative and/or remedial activities for the site identified as follows:

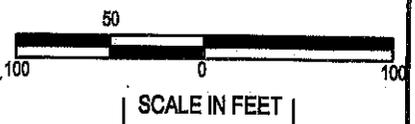
1. Legal Description or Reference to a Plat Showing the Boundaries: TRACT 1: ALL OF BLOCKS ONE HUNDRED-FIVE (105) AND ONE HUNDRED-SIX (106) AND THE NORTH ONE-HALF (1/2) OF BLOCK ONE HUNDRED-TWENTY (120) IN THE ORIGINAL TOWN, NOW CITY OF MATTOON, INCLUDING THE STRIP OF GROUND THAT ORIGINALLY WAS BETWEEN SAID BLOCK ONE HUNDRED-SIX (106) AND SAID BLOCK ONE HUNDRED-TWENTY (120), WHICH STRIP OF GROUND WAS ORIGINALLY A PORTION OF PRAIRIE AVENUE IN SAID CITY OF MATTOON, AND THAT PART OF PRAIRIE AVENUE FROM THE WEST SIDE OF (12<sup>TH</sup>) TWELFTH STREET TO THE WEST SIDE OF (13<sup>TH</sup>) THIRTEENTH STREET, AND WHICH PORTION OF SAID PRAIRIE AVENUE HAS BEEN VACATED BY THE CITY COUNCIL OF THE CITY OF MATTOON, AND ALSO THE STRIP OF GROUND THAT ORIGINALLY WAS BETWEEN SAID BLOCK ONE HUNDRED-FIVE (105) AND SAID BLOCK ONE HUNDRED-SIX (106), WHICH STRIP OF

58  
12

GROUND WAS ORIGINALLY A PART OF THIRTEENTH (13<sup>TH</sup>) STREET, LYING BETWEEN THE SOUTH LINE OF RICHMOND AVENUE AND THE NORTH LINE OF PRAIRIE AVENUE, AND THAT PART OF (13<sup>TH</sup>) THIRTEENTH STREET FROM THE SOUTH SIDE OF PRAIRIE AVENUE TO THE NORTH SIDE OF ALLEY BETWEEN PRAIRIE AVENUE AND BROADWAY AVENUE, IN SAID CITY OF MATTOON, AND WHICH PORTIONS OF SAID THIRTEENTH (13<sup>TH</sup>) STREET THAT HAVE BEEN VACATED BY THE CITY COUNCIL OF THE CITY OF MATTOON; ALL SITUATED IN THE CITY OF MATTOON, COUNTY OF COLES AND STATE OF ILLINOIS.

TRACT 2: LOTS ONE (1), TWO (2), THREE (3), FOUR (4), FIVE (5) AND SIX (6) IN BLOCK ONE-HUNDRED TWENTY-ONE (121) IN THE ORIGINAL TOWN, NOW CITY OF MATTOON, SITUATED IN THE COUNTY OF COLES, STATE OF ILLINOIS.

2. Common Address: 120 North 14<sup>th</sup> Street, Mattoon, Illinois 61938
3. Real Estate Tax Index/Parcel Index Number: State PIN 13-13-186-003 Tax Bill Number 07-1-03651-000 and State PIN 13-13-186-004 Tax Bill Number 07-1-03867-000
4. Site Owner: Magna Tax Service Co., Inc.
5. Land Use Limitation: The land use shall be industrial/commercial.
6. See the attached No Further Remediation Letter for other terms.



Richmond Avenue (75' ROW)

Former C.C.C. & St.L. Railroad (100' ROW)

Remediation Site Boundary

FORMER YOUNG RADIATOR

Remediation Site Boundary

14th Street (100' ROW)

12th Street (80' ROW)

Alley

13th Street (80' ROW)

Broadway Avenue (100' ROW)

**BODINE** ENVIRONMENTAL SERVICES, INC.  
 390 EAST 7th STREET, DECATUR, ILLINOIS 62521

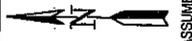
**SITE BASE MAP**  
 ILD 0290255010 - Coles County  
 Mattoon / Bellinger, Dennis  
 Site Remediation / Technical Reports

BODINE PROJECT #  
123194  
 SCALE  
1" = 100'  
 DATE  
January 8, 2017

FIGURE  
**SBM**

Attachment A-1

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(ASSUMED)



Parcel 2  
1313185003  
IL MO

1313185011  
ABANDONED RR

Parcel 1  
1313185009  
USPS

14th Street (100' ROW)

Richmond Avenue  
(75' ROW)

MODELED EXTENT OF  
GROUNDWATER  
CONTAMINATION

Parcel 5  
1313186001  
CITY OF MATTOON

Former C.C.C. & St.L. Railroad  
(100' ROW)

Radius = 271'

1313186005  
ABANDONED RR

Parcel 3  
1313182007  
Salvation Army

Parcel 4  
1313183005  
City of Mattoon

12th Street (80' ROW)

MW103

MW102

Radius = 284'

Project Site  
Industrial/Commercial  
Property Use Only  
*Construction Worker  
Caution*

1313186003  
Magna Tax Service Co Inc

1313186004  
Magna Tax Service Inc

### LEGEND

MONITORING WELL

MODELED EXTENT OF  
GROUNDWATER CONTAMINATION  
*6000 Notification*

FIGURE

7

### MODELED EXTENT OF GROUNDWATER CONTAMINATION

Former Young Radiator  
120 North 14th Street  
Mattoon, Illinois

NOTES:  
1. DRAWING BASED ON FIELD OBSERVATIONS.  
2. THE AREA SHOWN IS BASED ON PROFESSIONAL JUDGMENT AND  
EXTRAPOLATION OF DATA FROM OBSERVATIONS. THE AREA IS NOT  
INTENDED TO ACCURATELY PORTRAY ACTUAL SITE CONDITIONS, WHICH  
MAY VARY SUBSTANTIALLY.  
3. PARCELS 1 THRU 5 IDENTIFIED ABOVE WILL BE NOTIFIED VIA CERTIFIED  
MAIL OF THE UTILIZATION OF CITY OF MATTOON ORDINANCE 2010-5286  
PREVENTING THE POTABLE USE OF GROUNDWATER WITHIN THE  
CORPORATE LIMITS OF THE CITY OF MATTOON.

**BODINE** ENVIRONMENTAL SERVICES, INC.  
201 EAST WINDSOR ROAD  
DECATUR, ILLINOIS 62521

REVISION	DATE	DESCRIPTION	DRAWN BY / CHECKED BY	SCALE
1	1/22/2016	Field based on 2015 data	PCA	1 inch = 80 feet
2	1/27/2016	Revised to reflect data modeling		DATE
3	1/27/2016	Revised to reflect Agency modeling		DATE
4	1/27/2016	Revised to reflect Agency modeling		DATE

PROJECT # 1313186004

DATE 1/27/2016

SCALE 1 inch = 80 feet

FIGURE 7

**CITY OF MATTOON, ILLINOIS**

**ORDINANCE NO. 2010-5286**

**AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER AS POTABLE WATER SUPPLY BY THE INSTALLATION OR USE OF POTABLE WATER SUPPLY WELLS OR BY ANY OTHER METHOD**

**WHEREAS**, certain properties in the City of Mattoon, Illinois have been used over a period of time for commercial/industrial purposes; and

**WHEREAS**, because of said use, concentrations of certain chemical constituents in the groundwater beneath the City may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code 620 or Tier 1 remediation objectives as set forth in 35 Illinois Administrative Code 742; and

**WHEREAS**, the City of Mattoon desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MATTOON, ILLINOIS;**

**Section 1. Recitals.** The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2. Amendments.** Section 51.003 of Chapter 51 is enacted as follows

**§ 51.003 POTABLE WATER WELLS**

(A) Use of groundwater as a potable water supply prohibited. Except for such uses or methods in existence before the effective date of this ordinance, The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City of Mattoon, as a potable water supply, by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition expressly includes the City of Mattoon.

(B) Any person violating the provisions of this ordinance shall be subject to a fine of up to \$750.00 for each violation.

(C) Definitions – for the purposes of this section the following definitions shall apply:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

“Potable Water” is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

(D) All ordinance or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

(E) If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

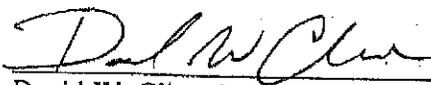
**Section 3.** This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

**Section 4.** This ordinance shall be effective upon its approval as provided by law.

Upon motion by Commissioner Rankin, seconded by Commissioner Hall, adopted this 16th day of March, 2010, by a roll call vote, as follows:

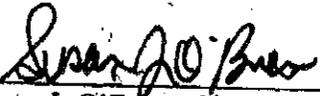
AYES (Names):	<u>Commissioner Ervin, Commissioner Gover,</u> <u>Commissioner Hall, Commissioner Rankin,</u> <u>Mayor Cline</u>
NAYS (Names):	<u>None</u>
ABSENT (Names):	<u>None</u>

Approved this 16th day of March, 2010.

  
\_\_\_\_\_  
David W. Cline, Mayor  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Susan J. O'Brien, City Clerk

  
\_\_\_\_\_  
J. Preston Owen, City Attorney

Recorded in the Municipality's Records on 03-17, 2010.



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

BRUCE RAUNER, GOVERNOR

ALEC MESSINA, DIRECTOR

217/524-3300

MAY 22 2017

CERTIFIED MAIL

7014 2120 0002 3286 5032

Magna Tax Service Co., Inc.  
Attention: Dennis Ballinger  
119 West William Street  
PO Box 1452  
Decatur, Illinois 62523

Re: LPC #0290255010 -- Coles County  
Mattoon / Ballinger, Dennis  
120 North 14<sup>th</sup> Street  
Leaking UST Incident No. 20131007 -- NFR Letter  
Leaking UST Technical File

Dear Mr. Ballinger:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report submitted for the above-referenced incident. This information was dated January 16, 2017, and was received by the Illinois EPA on January 23, 2017. Citations in this letter are from the Environmental Protection Act (415 ILCS 5) (Act) and Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code).

The Corrective Action Completion Report and associated Professional Engineer Certification submitted pursuant to Section 57.7(b)(5) of the Act 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 Robert Rogers, 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 environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following parties:

1. Magna Tax Service Co., Inc., 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.

### CONDITIONS AND TERMS OF APPROVAL

#### LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. The remediation objectives have been established in accordance with an industrial/commercial land use limitation. 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 land use shall be industrial/commercial.
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: Prior to commencement of any future excavation and/or construction in or near the contaminated zone of the remediation site, a safety plan for this remediation site is required that is consistent with the National Institute for Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities; Occupational Safety and Health Administration regulations, particularly in 29 CFR 1910 and 1926; state and local regulations; and other United States EPA guidance as provided. At a minimum, the plan should address possible worker exposure if any future excavation and construction activities occur within the contaminated soil.

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

Ordinance 2010-5286 adopted by the City of Mattoon effectively prohibits the installation of potable water supply wells (and the use of such wells) and is an acceptable institutional control under the following conditions:

- a. The current owner or successor-in-interest of this site who relies on this ordinance as an institutional control shall:

- i. Monitor activities of the unit of local government relative to variance requests or changes in the ordinance relative to the use of potable groundwater at this remediation site; and
  - ii. Notify the Illinois EPA of any approved variance requests or ordinance changes within 30 days after the date such action has been approved.
- b. Each affected property owner, potentially affected property owner (as identified through contaminant modeling), and the City of Mattoon 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:
  - i. The name and address of the unit of local government;
  - ii. The citation of the ordinance used as an institutional control in this Letter;
  - iii. A description of the property 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 was 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.

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

- a. Modification of the referenced 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.
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 voidance 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.
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  
Division of Records Mgmt - #16  
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 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 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.

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, Melinda Friedel, P.E., at 217/785-5736 or [melinda.friedel@illinois.gov](mailto:melinda.friedel@illinois.gov).

Sincerely,



Michael T. Lowder  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

Attachments: Leaking Underground Storage Tank Environmental Notice  
Site Base Map  
Groundwater Contamination Map  
City of Mattoon Ordinance 2010-5286

- c: Robert Rogers / Bodine Environmental Services, Inc. (electronic copy),  
[brogers@bodineservices.com](mailto:brogers@bodineservices.com)  
BOL File

Run Date :6/2/2010

## DLC Assignment Form

Assignment ID :7297  
Subject :Mattoon/Wareco Station #996  
Subject Type :Ordinance Review  
DLC In Date :6/2/2010  
DLC File No. :  
Correspondence No. :R10060203

DLC Completed Date. :

**Assigned Staff:**

Wight, Mark Attorney  
Myers, Dave Bureau Requestor

**Project Details:**

**Comments:**

**Notification List**

**Former Young Radiator  
120 North 14th Street  
Mattoon, Illinois 61938**

**Parcel IDs 1313186003 and 1313186004**

<u>Parcel ID</u>	<u>Property Owner</u>	<u>Property Address</u> <u>Street</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>	<u>Mailing Address</u> <u>Street</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
1 1313185009	US Postal Service	120 N 15th Street	Mattoon	Illinois	61938	c/o Great Lakes FSO62 Stratford Drive	Bloomingtondale	Illinois	60117-7000
2 1313185003	IL MO Welding Products	213 N 14th Street	Mattoon	Illinois	61938	Post Office Box 790	Jacksonville	Illinois	62651
3 1313182007	Salvation Army	300 N 14th Street	Mattoon	Illinois	61938	Post Office Box 671	Mattoon	Illinois	61938
4 1313183005	City of Mattoon	1220 Richmond Avenue	Mattoon	Illinois	61938	208 North 19th Street	Mattoon	Illinois	61938
5 1313186001	City of Mattoon	No address	Mattoon	Illinois	61938	208 North 19th Street	Mattoon	Illinois	61938
1313185011	Abandoned Railroad	No address				No address			
1313186005	Abandoned Railroad	No address				No address			