

1970450028

Caterpillar INC  
Site Remediation/Teck

Document Prepared by  
And After Recording Return To

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Attention: Kevin P. Breslin, Esq.  
RB File No. 11000.06300



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Karen A. Stukel Will County Recorder 5P

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THE ABOVE SPACE FOR RECORDER'S OFFICE

Environmental Land Use Control

THIS ENVIRONMENTAL LAND USE CONTROL ("ELUC") is made this 27<sup>th</sup> day of May, 2010, by Midwest Generation, LLC ("Property Owner" or "Midwest Generation") of the real property located at the common address, 1800 Channahon Road, Joliet, Illinois (the "MG Property").

WHEREAS, 415 ILCS 5/58.17 and 35 Ill. Adm. Code 742 provide for the use of an ELUC as an institutional control in order to impose land use limitations or requirements related to environmental contamination so that persons conducting remediation can obtain a No Further Remediation determination from the Illinois Environmental Protection Agency ("IEPA"). The reason for an ELUC is to ensure protection of human health and the environment. The limitations and requirements contained herein are necessary in order to protect against exposure to contaminated soil or groundwater, or both, that may be present on the property as a result of past industrial activities on adjacent property known as the Joliet Manufacturing Campus (the "Campus"). Under 35 Ill. Adm. Code 742, the use of risk-based, site-specific remediation objectives may require the use of an ELUC on real property, and the ELUC may apply to certain physical features (e.g., engineered barriers, monitoring wells, caps, etc.).

WHEREAS, CenterPoint Joliet LLC intends to request risk-based, site specific soil and groundwater remediation objectives from IEPA under 35 Ill. Adm. Code 742 to obtain risk-based closure of the adjacent Campus site, identified by Bureau of Land LPC # 1970450028, utilizing an ELUC.

NOW, THEREFORE, the recitals set forth above are incorporated by reference as if fully set forth herein, and the Property Owner agrees as follows:

*Section One.* Property Owner does hereby establish an ELUC on a portion of the MG Property, situated at the common address 1800 Channahon Road, Joliet, in the County of Will, State of Illinois. Exhibit A further describes the portion of the MG Property to which the ELUC applies.

Attached as Exhibit B are site maps that show the legal boundary of the portion of the MG Property to which the ELUC applies, as well as any physical features to which the ELUC applies, the horizontal and vertical extent of the contaminants of concern above the applicable remediation objectives for soil or groundwater or both, and the

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EXHIBIT  
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nature, location of the source, and direction of movement of the contaminants of concern, as required under 35 Ill. Adm Code 742.

*Section Two.* Property Owner represents and warrants it is the current owner of the MG Property and has the authority to record this ELUC on the chain of title for the MG Property with the Office of the Recorder or Registrar of Titles in Will County, Illinois.

*Section Three.* The Property Owner hereby agrees, for itself, and its heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the MG Property or the holder of any portion thereof or interest therein, that:

- a) No person shall construct, install, maintain, or operate a water supply well within the 485 foot-wide setback zone depicted in Exhibit B. All water supplies and water services for this setback zone 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). Any contaminated groundwater or soil that is removed, excavated, or disturbed from the MG Property described in Exhibit A herein must be handled in accordance with all applicable laws and regulations.

*Section Four.* This ELUC is binding on the Property Owner, his heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the MG Property or the holder of any portion thereof or interest therein. This ELUC shall apply in perpetuity against the MG Property and shall not be released until the IEPA, upon written request, issues to the site that received the no further remediation determination a new no further remediation determination approving modification or removal of the limitation(s) or requirement(s); the new no further remediation determination is filed on the chain of title of the site subject to the no further remediation determination; and until a release or modification of the land use limitation or requirement is filed on the chain of title for the MG Property.

*Section Five.* Information regarding the remediation performed on the adjacent Campus site may be obtained from the IEPA through a request under the Freedom of Information Act (5 ILCS 140) and rules promulgated thereunder by providing the IEPA with LPC # 1970450028.

*Section Six.* The effective date of this ELUC shall be the date that it is officially recorded in the chain of title for the MG Property to which the ELUC applies.



PIN No.: 07-30-200-002

Exhibit A

The subject property is located in the City of Joliet, Will County, State of Illinois, commonly known as 1800 Channahon Road, Joliet, Illinois ("MG Property"). The portion of the MG Property to which the ELUC applies is described as follows:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 19 LYING SOUTH OF U.S. ROUTE 6 AND THE NORTHWEST QUARTER OF SECTION 30 LYING NORTH OF THE NORTH LINE OF THE DES PLAINES RIVER, ALL IN TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 30 WITH A LINE DRAWN 1963.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 30; THENCE SOUTH  $01^{\circ}55'47''$  EAST ALONG SAID PARALLEL LINE, 504.85 FEET; THENCE SOUTH  $60^{\circ}13'04''$  EAST ALONG A LINE HEREINAFTER REFERRED TO AS LINE "A", 470.20 FEET TO A LINE THAT IS 400.00 FEET EAST OF AND PARALLEL WITH SAID LINE DRAWN 1963.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SECTION 30; THENCE SOUTH  $01^{\circ}55'47''$  EAST, 1989 FEET, MORE OR LESS, TO THE APPROXIMATE NORTHERLY BANK OF THE DES PLAINES RIVER; THENCE NORTHEASTERLY ALONG SAID NORTHERLY BANK, 634 FEET, MORE OR LESS, TO A LINE DRAWN 2848.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SECTION 30, AFORESAID; THENCE NORTH  $01^{\circ}55'47''$  WEST ALONG SAID PARALLEL LINE, 1851 FEET, MORE OR LESS, TO A LINE DRAWN 485.00 FEET NORTHEAST OF AND PARALLEL WITH LINE "A", AFORESAID; THENCE NORTH  $60^{\circ}13'04''$  WEST ALONG SAID PARALLEL LINE, 1040.30 FEET TO A LINE DRAWN 1963.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SECTION 19, AFORESAID; THENCE SOUTH  $01^{\circ}55'04''$  EAST ALONG SAID PARALLEL LINE, 65.26 FEET TO THE POINT OF BEGINNING, IN WILL COUNTY, ILLINOIS.

PIN: 07-30-200-002



